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ADDRESSES

BEFORE THE

MEMBERS OF THE BAR,

OF

WORCESTER COUNTY, MASSACHUSETTS:

BY

JOSEPH WILLARD,

OCTOBER 2, 1829;

EMORY WASHBURN,

FEBRUARY 7, 1856;

DWIGHT FOSTER,

OCTOBER 3, 1878.

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WITH

APPENDIX AND LIST OF MEMBERS OF THE BAR.

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WORCESTER:

PRESS OF CHAS. HAMILTON.

1879.





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## P R E F A C E .

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The act establishing the County of Worcester was passed April 2, 1731, to take effect from the tenth of July following. Its provisions included in the county, the towns of Worcester, Lancaster, Westborough, Shrewsbury, Southborough, Leicester, Rutland, Lunenburg and Southtown, laid out to the Narragansett soldiers, now Westminster, taken from Middlesex; Mendon, Woodstock, now in Connecticut; Sutton, including Hassanamesit, now Grafton; Uxbridge, the land granted to the petitioners of Medfield, now Sturbridge, from Suffolk; and Brookfield, from the County of Hampshire. The location of the shire-town of the new county occasioned much debate and diversity of opinion. For many years Sutton, Lancaster, Mendon and Brookfield stood higher in rank, graduated on population and valuation, than Worcester. The central position of the latter town gave it the advantage over its competitors for the honor of becoming the shire of the county, and this question was finally decided in favor of Worcester, by the influence of Joseph Wilder, Esq., of Lancaster, who remonstrated against the administration of justice in that town, lest the morals of its people should be corrupted. The first Court of Probate was held in Worcester, July 13, 1731, and the first Court of Common Pleas and General Sessions of the Peace, the tenth of the following August, and the Superior Court of Judicature on the twenty-second of September following.\*

Two years less than a century from the organization of the

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\*Lincoln's History of Worcester, 58.

courts of the county, on the second of October, 1829, on the occasion of a social festival of the Bar of the County, by their invitation, the address contained in this volume by Joseph Willard, Esq., then of Lancaster, was delivered, in which he gave brief biographical sketches of deceased members of the Bar, from the time of the first establishment of courts in the county to the time of the delivery of his address.

February 7, 1856, being the occasion of another similar social festival of the Bar, by their invitation, another historical address was delivered by Hon. Emory Washburn, continuing the history of the deceased members of the Bar from the period where Mr. Willard left it to the time of his own address. These two addresses were published, but are out of print.

At another festival of the Bar, on the 3rd of October, 1878, by their invitation, this historical sketch was continued in an address by Hon. Dwight Foster. All of these addresses are able and interesting, and are important contributions to the history of the county.

At a meeting of the Bar, held immediately after the address of Judge Foster, it was voted unanimously that the committee of arrangements communicate to him the thanks of the Bar for "his very able, excellent and interesting address," and to request a copy for publication. This request having been made, and complied with, the committee decided to publish the three addresses, with an appendix, in one volume, and the matter was referred to the chairman and secretary of the committee, with power to act. This volume is the result. It makes a very full history of the Bar of the County of Worcester during the period covered by the three addresses.

Notices of all the deceased members of the Bar could not reasonably be expected in these addresses, necessarily so limited. Previous to the delivery of the last of them, many members of

the Bar, more or less distinguished for learning and ability, not noticed in either of these addresses, had died. Some notice of these, as far as practicable, was deemed desirable in this volume. This has been done in the appendix. The first sixty of these, ending with that of Abel Whitney, on page 207, are taken from the appendix to the address of Gov. Washburn as it was first published. The remaining sketches have been prepared for the appendix to this volume. It includes notices of all members of the Bar, of whom information could be obtained, who died previous to the address of Judge Foster and who are not noticed in either of the addresses before mentioned.

To this appendix is added a list, as complete as practicable, of members of this Bar who had practised or resided in this county previous to October 3, 1878, including the date, place of birth, and admission to the Bar of each, the place or places where each has resided, and the dates and places of graduation of those who have been graduated at any of the established colleges of this country.

The committee have endeavored to make this appendix as complete as possible from the sources of information within their reach. In procuring these statistics the committee have received valuable aid from several members of the Bar.

In behalf of the Committee.

JOSEPH MASON, *Chairman.*

A. GEORGE BULLOCK, *Sec'y.*





ADDRESS OF JOSEPH WILLARD, ESQ.



# ADDRESS

OF JOSEPH WILLARD, ESQ.

---

THE occasion which calls us together is neither without its interest nor without its use. We have snatched a few moments, in which we have turned aside from the busy walks of life, and the painstaking efforts of a laborious calling, to dwell upon some subjects connected with our profession that are important in themselves, and will continue of value so long as we are true to our high trust, and the obligations we have assumed.

Although nearly a century has elapsed since the incorporation of this county, each succeeding anniversary has passed by without notice. There has been no meeting like the present, where I see, gathered around, those of every age and stage in the profession. In some other places in the Commonwealth it has been otherwise; and addresses have been delivered treating upon the history of the bar, and matters connected with professional pursuits.

I have no ability, nor do I essay, to emulate those who have appeared on similar occasions; but the rather as a forlorn hope I have come up to this place, for the fathers would not come up, to hold out in future years an inducement to those who may be designated by you to put forth their strength, and surpass my humble efforts. To some it may appear a favorable circumstance that the ground is untrodden, and they may think a full harvest awaits him who first puts in the sickle. But it should be remembered that an untrodden path is not always easy: the rather is it filled with impediments that meet you at every turn; and if you

gather fruit or flower you do it at no common hazard, and possibly may lose your venture.

Let us dwell on these occasions: they will be found of value as a point of union hereafter to be more diligently sought for, as the circles of time and space widen, and receive more within their embrace. They will be found of value as stirring up to life and action the sympathies that exist in those following the same pursuit; the feelings, now indeed almost in a state of repose, but which need but a little quickening influence to render them healthy and vigorous. They will call out that *esprit de corps* that renders the profession in verity but one body, suffering and rejoicing together, and urging it on to those intellectual efforts that will secure the favorable public sentiment, and enable the individual members to fulfil the manifold duties they owe to themselves and to society.

On looking upon our ranks we find that from a little one we have become a host, assembling for the same object, and guided by the same feelings. It is time then that stated meetings should be had, with the same general purpose as the present, binding us more closely together, and furnishing a tribute of our respect for that profession which is the common mother of our peace and joy.

There are, however, antecedent duties, incumbent on every one as a member of society, as a part of that great whole which we call the world. It is the law of our existence, as moral agents, and still more when we cease to be isolated beings and come into society, to endeavor, according to the means and opportunities that are placed within our reach, to sacrifice the selfish principle, or rather to regulate and restrain it, and to leave all our good qualities of thought and feeling free exercise in aid of every praiseworthy effort to advance the good of mankind, and especially to dwell largely upon the interests of our own age, and of the community to which we belong.

It is our duty, so far as we have education and ability, to search diligently for the means of general improvement, and apply ourselves with earnestness to the task. We may be called upon to suffer while we are yet in the way; we may be compelled to pass through evil report as well as good report; to encounter the ingratitude of those we would serve; to have our views perverted; our motives misunderstood; our efforts opposed and ridiculed. Still our duty is no less plain to persevere in our course, to press forward with good courage, and look to the end while we are zealous in elaborating the means. It is well that the love of distinction, whether immediate or posthumous, lends a helping hand to support our faltering steps, and strew the ground on which we tread with flowers, and gild the heavens above us with brightness. This lifts us above and beyond that refined spirit of selfishness, so fashionable a doctrine at the present day, to which altars are erected and incense is offered, but which is still the apotheosis of self, and spiritualizes away all common sense. "It is," says Bacon, "a poor centre of man's actions, himself. It is right earth: whereas all things that have affinity with the heavens move upon the centre of another which they benefit."

Beyond the general obligation that each individual is under to promote the interests of society, lies the further and more peculiar duty that he owes to his own particular vocation. It is altogether a mistaken idea that a man has a complete right to his own time, to dispose of it at his own pleasure. He is not, neither ought he to be, an independent being. The law of dependence, not slavish subservience, is by nature and society, and to this he must submit. The demands that are made upon him for the general good he must listen to and obey, because it is for the general happiness;—a consideration superior to the claims of individual comfort. The Roman orator in his Republic, with very just views on the subject, exclaims:—"Neque enim

hac nos patria lege genuit aut educavit, ut nulla quasi alimenta expectaret a nobis, ac tantummodo nostris ipsa commodis serviens, tutum perfugium otio nostro suppeditaret, et tranquillam ad quietem locum: *sed ut plurimas et maximas nostri animi, ingenii, consilii, partes ipsa sibi ad utilitatem suam pigneraretur:* tantumque nobis in nostrum privatum usum, quantum ipsi superesse posset, remitteret," allowing to each one, for his own private use, only that portion that the public might not require.

There is a quickening influence that each one may exert in his own walk of life. But this truth, if felt, is not practised upon as it should be. Look for a moment at the beginning and progress in this matter, and at the frequent result. On entering into a profession we generally form excellent resolutions of industry and perseverance, and our imaginations work out in glorious perspective a brilliant pathway, where the eye is to be delighted with exceeding beauty, and the air to be filled with rich fragrance. The progress to eminence seems plain and easy. We feel that we shall be able to achieve all that has ever been achieved by the mighty ones who have gone before us. We look upon those who have faltered by the wayside with contemptuous pity, confident that a different fate awaits us. If the laws of nature are not to be changed in our behalf, there is to be some signal interposition, to constitute us an exception to that which is true of most others.

But these illusions of the fancy are too pleasing to continue. The crowded way, the private griefs, the home realities of life, the doubts and fears, the love of personal ease, the increasing difficulty of exciting the intellect to exertion,—all these tend to cool the ardor and check the activity of the mind, and tempt us to fall into the general current, and to be borne along by it, whatever may be its course, though shallows and miseries are around and beneath, rather than to gather up our energies to stem its force, or direct it where it may fertilize and not destroy:

thus becoming slaves to the will of others, bearing or forbearing, doing or omitting what they, not we, think best.

Every one in entering into a profession makes a tacit agreement that he will not pervert its objects, nor lower its standard. He is bound by every motive to help it onward, for it is a part of the great work of society, and he has peculiar means and opportunities to advance its interests and increase its value. Why does he enter upon it? Is it merely to acquire wherewithal to support his existence? Is it not for the further and higher object of earning a good name, of gathering the distinctions that belong to his profession, and of preserving an imperishable esteem? He is placed there by his own choice; he can pour light upon his pursuit; and though the rays be few and scattered, still it is light, and he must produce what illumination he can. As a matter of pride and self-respect he should be unwilling that through him his profession should be pierced and wounded. No man should be ashamed of his calling, nor seek to degrade it. He is one of the artificers without whose aid the building cannot be aptly framed and completed. The apartment he may occupy may be of limited extent, and small to the eye of the observer; but it is a part of the great whole. He has the power to concentrate his attention and his efforts, to penetrate the mysteries of his pursuit with a clear and single eye, to give each part its proper proportion, and present the whole in the most favorable attitude before the world. The sympathy of a kindred object should excite him; pride, that dwells largely in the human breast, and lies at the foundation of much useful exertion in the great field of improvement, should urge him on to noble activity. As mental labor becomes more divided and subdivided, each branch of knowledge is ministered unto with more assiduity, and each, consequently, is turned out with greater beauty and excellence. The intellectual *labor limae* becomes greater, and the responsibility of each one who ventures forth increases in proportion.

This is another incentive to exertion, and to aim at high attainments. And the fact that increased personal consideration follows success, and that scarcely any one is so gifted of heaven as to excel in various pursuits, should serve to develop the latent powers of the mind, and to advance them to maturity and strength.

The pursuit of intellectual distinction should be worshipped as the mistress of our affections, and the *gladsome light* will break in to cheer and illumine. And is not the reward in proportion? Who shall check the career of the painstaking and gifted? Who shall set limits to the ethereal principle that widens and rises by culture, and attempt to bound its exertions for the general good? There is a seminal particle of life in it that will not be suppressed: it will grow and strengthen, and burst forth in the voice of truth, in the pleasing tones of persuasion, in the thrilling influences of eloquence, that has less of earth than of heaven, and leaves its indelible traces on the heart and soul, wasting not, rioting not, though lavish of its treasures.

The institution of the legal profession is a necessary consequence of a civilized state of society. In the rude condition of man, each individual, in a greater or less degree, takes the redress of his private wrongs into his own hands. Justice becomes subservient to the strongest, and the whole question of right is resolved into a calculation of comparative physical power. The tyranny is of the grossest kind, for it is the triumph of material nature, and makes waste places through the force of the worst passions and prejudices. It was such a state of things that constituted the world a desert, and man the mere creature of sensation.

“Then waited not the murderer for the night,  
But smote his brother down in the bright day,  
And he who felt the wrong, and had the might,  
His own avenger, girt himself to slay;  
Beside the path the unburied carcass lay;



The shepherd, by the fountains of the glen,  
Fled, while the robber swept his flocks away,  
And slew his babes. The sick untended then,  
Languish'd in the damp shade, and died afar from men."

But with society came in all the forms and attributes that were necessary to give it a permanent habitation, and courts were constituted, and officers appointed, whose duty it was to judge between man and his neighbor. The more men came in contact, the more frequent, of course, were the collisions and differences that sprung up. The strong and the weak, the cunning and the unwary, the child and the female, would, as occasion required, seek the interposition of others to stay injury and avenge wrong. Many, indeed most, would be but poorly qualified to place their own cause in the best point of view, and support their allegations. Hence came the necessity of a distinct body, whose duty it should be to appear for others, and to do and say what the aggrieved would do and say had they the ability. As such a body increased in numbers it would increase in weight and importance, and being duly versed in the forum, and well grounded in form and substance, it would naturally, by common consent, gain a vantage ground, which would continually become more sure as the relations of society multiplied, giving rise to numerous and complex systems of laws. Once established it becomes a regular part of the machinery of society, and, if not necessary for its preservation, is essential to its well being. It is placed on the heights of the citadel to catch the notes of tyranny and oppression in their lowest breathings, watching from a distance the approach of injustice, and interposing as the shield of innocence against the arm of unbridled power.

The institution of the profession may then be assigned to an early day in the history of civilization. At Rome its distinction was high. Each jurist was of the patrician rank, and stood in

the relation of patron to his clients. At day dawn his gates were thronged by those who were seeking for advice and protection. Even in the luxurious days of Horace, *sub galli cantum, consultor ubi ostia pulsat*, he heard their grievances and appeared for their redress. The relation between them, as established in the time of Romulus, and continued to the reign of the Emperors, was so sacred that "neither party was allowed to give evidence against the other." And this connexion, which was also political, became hereditary. The most distinguished of the patrician order enrolled themselves in the profession, as it gave them great influence and wide helps in their ambitious views of office. For several centuries there was no pecuniary reward, and the Cincian Law, in the time of the Republic, enacted *ne quis ob causam orandam, pecunium donumve accipiat*. And even so late as the reign of Trajan, when an honorarium was allowed, a decree was passed requiring an oath from the client that he had neither given nor promised any remuneration before the trial, but did not prevent the patron from receiving an honorary remuneration for his services. When fees were finally established, the patrons were not allowed to receive more than ten thousand sesterces, or about eighty pounds sterling. Instances however were not unknown of still larger fees: and Suilius, of venal memory, in the reign of Nero, was banished to an island in the Mediterranean for his monstrous extortion. But large rewards still flowed in, and the distant provinces had their patrons in Imperial Rome, many of whom by their distinguished talents amassed immense possessions. These rewards were not confined to gold and silver, but as the great Roman satirist affirms—

“——Praestare tributa clientes  
Cogimur, et cultis augere peculia servis.”

The profession continued to flourish, and was full of talent and

power during the reign of the later Emperors and in the Byzantine Empire, till the whole of classic ground was overrun by barbarians. A large proportion of the best and most useful writers, we are told, and the most valuable of the fathers of the Latin Church, were jurists.

The discovery of the pandects in the twelfth century was immediately followed by an ardent zeal in the pursuit of the civil law on the continent of Europe. Many of its precepts, more or less obscured, by the lapse of time and the torrent of barbarism that had spread over and wasted the fairest portions of Europe, had survived as a part of the oral knowledge of the day, and retained some influence in the community; like the vigorous seed penetrating the soil, and piercing the incumbent clods, till it reaches the upper earth and becomes the thrifty and hardy plant. The civilians soon became a distinct class, and by their labors in the forum, and their learned commentaries, they gained distinction to themselves, and impressed a fair character upon the jurisprudence of their time and country.

In Scotland, where the civil law bore sway, it was not till the sixteenth century that the practice of the law became a distinct profession. In the reign of James the Fifth a certain number of men were bred to the law, whose duty it was to aid in the discussions and contentions of the forum: and this, we are told, "was the first establishment of a body regularly educated to the law, which has ever since been regarded in Scotland as an honorable profession, and has produced many great men." Its earlier establishment was doubtless prevented by the division of the country into numerous and powerful clans, whose interminable conflicts would not brook the restraints of judicial authority.

In England we may go much further back. Its origin there as a distinct profession has not, I believe, been exactly ascertained: but, not far from the time of the Conqueror, the degree of Serjeant and that of Barrister or Apprentice were well known

and distinctly marked. Indeed it is probable that we may trace upward the current of time to the days of Saxon power. The office of Attorney is of subsequent origin, of less dignity, and subject to severer regulations. In those early days there could have been but a narrow field for professional opportunity and display. There was no middle rank to unite the two extremes of society. "Citizens and burgesses were but little better than slaves."

In dwelling for a few moments upon the history of the bar in our own state, it may not be out of place to describe, with brevity, the construction and machinery of our ancient courts. The colony charter established a body composed of the Governor, Deputy Governor, and eighteen assistants, who were all chosen annually. To this body was entrusted the general management of the affairs of the company, subject to an allegiance to the crown, that all history shows was in truth merely nominal. In this tribunal was vested the judicial authority of the colony. For the first year or two the freemen assembled with this body, and constituted the Great and General Court. In 1634, the freemen of the towns, instead of appearing at court in person, sent deputies; a new choice being had for each meeting of the court, of which there were four annually. This was the origin of the system of representation still existing amongst us, though, in its first establishment, it was necessary to strain the charter a few points, and enlarge its spirit by a very liberal construction, to authorize the measure. This shows, so far as it goes, the early tendency of the colonists to an independent exercise of their powers. In 1644, the Deputies first formed a distinct house from the assistants or magistrates. For several years the whole judicial power was exercised by the court of assistants, excepting in those cases that were within the jurisdiction of the Justices of the Peace, and the assistants were the only justices in their respective counties. Juries of trials

were not regularly returned till 1634, and Grand Juries the next year; who at the very first term presented above a hundred offences, and amongst them some in which the magistrates were implicated. But as the scattered population extended in a few years from the borders of Plymouth Colony to the Province of Maine, and from the ocean to Connecticut River, a new arrangement became necessary. Accordingly, in 1639, County Courts for each county were established. They were held by the magistrates in each county, or any other magistrates who would attend, together with such persons as were chosen and approved of by the General Court, five in all, any three of whom might hold a court. They had jurisdiction in all civil cases, and in all criminal cases where the penalty did not extend to life, member, or banishment. They also constituted the Court of Probate. Appeals lay to the Court of Assistants, and thence to the General Court, where frequently reviews and new trials were granted to be had in the courts below. The assistants, as I have stated, were, *ex-officio*, Justices of the Peace. Selectmen had the right of determining offences against the by-laws of their towns, under certain restrictions; and in many towns a Court of Commissioners was appointed by the towns themselves, and approved of by the County Court, to determine small debts, and trespasses under twenty shillings. The Governor, Deputy Governor, and any two magistrates, or, in their absence, any three magistrates, might hold special courts for the trial of County Court causes, between strangers, or where one stranger was a party. The authority of the Court of Assistants extended to appeals from the inferior tribunals; and to life, member, and banishment, in criminal matters.

The judicial polity of the colony continued unaltered till judgment was rendered in the Court of King's Bench, in 1684, and the charter of Massachusetts was declared forfeited. Charles the Second died the following year, and the severe measures of

the parent government in relation to the colony were for awhile suspended. The usual elections were held in 1685. In May, 1686, a commission was issued by James II. appointing a President and Council, to whom the general and particular administration of affairs was entrusted. The courts were continued on the same footing as before, excepting that the President\* assumed the powers of the Supreme Ordinary, and laid claim, also, to vice-admiralty jurisdiction. He was superseded by Sir Edmund Andross, who arrived in Boston in December, 1686. Andross introduced the forms used by the Spiritual Courts in England in all matters touching the probate of wills, granting administrations, &c. Before his time there had been as little formality in these proceedings as in the other business of the courts; and the changes he introduced were so beneficial that they have been substantially preserved to the present time, and stand out, together with greater correctness in legal proceedings, as the only bright spot from the dark and desolating tyranny of his government. On the coming in of William of Orange, and the subsequent imprisonment of Andross, in the spring of 1689, when nothing but the virtue and intelligence of the community saved political society from resolving itself into its original elements, a number of gentlemen associated as a "council for the safety of the people and conservation of the peace," and assumed, from the necessity of the case, a brief authority in the administration of affairs, until the power sent back to the electors could be heard and exercised by their constituted organs. And thus for the space of three years, and till the arrival of Sir William Phips with the new charter, the affairs of the Colony, at first by necessity, and then by royal authority, were administered under the old charter.

The machinery of the courts was much altered by the Province charter. The number of assistants or councillors† was

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\* Joseph Dudley. † I have adopted this orthography, which has the sanction of Hutchinson, and is besides, analogically, the most correct.

increased to twenty-eight, and they, with the Governor and Lieutenant-Governor, constituted the Supreme Ordinary, and decided all questions touching marriage and divorce. An act, indeed, was early passed, establishing Courts of Probate in the several counties; but for some reason it was negatived by the king. Judges of Probate, who are frequently spoken of in the Province laws, were mere Deputies of the Governor and council. The Superior Court answered in its principal features to our present Supreme Court. There was also a court of Common Pleas in each county, for civil trials, and courts of General and Quarter Sessions. The two latter had cognizance of criminal offences, and the former of them had substantially the same power that is now vested in the county commissioners. Magistrates were appointed in the same manner, and with the same general powers in civil and criminal matters, as under the present constitution and laws.

At the first coming over to this country the colonists diligently set themselves to work, and made a great improvement in the system of the common law. By the charter, which established free and common socage as the mode of tenure of lands, much of the offensive matter of the feudal system was swept off, and in 1641, by an express law, it was declared that land should be free from all fines and licenses on alienations, from all heriots, wardships, liveries, primer seizins, year day and waste, and escheats and forfeitures. This formed a fit basis for the law of real property, and, together with the nearly equal distribution of estates, gave a great impulse to the infant community.

The early laws, though severe, were not numerous. The utmost simplicity prevailed in all proceedings, partaking fully of the character of the times. But still there was much irresponsible power exercised by the magistrates. As they, with the clergy, were the only educated men in the community, constituting an entirely different state of things from that which now

exists, it is not strange that they thought themselves justified in assuming what they supposed a healthful jurisdiction. Winthrop was strong in this opinion, and so also were many others: and even Hubbard, in a subsequent age, remarks with approbation that "it was always the apprehension of the wisest rulers in New England, that it had been better for the country to have left more liberty in the hands of the magistrates, and not to have tied them up so strictly to the observation of particular laws, that many times are very prejudicial to honest men;" as if discretion were not, in fact, only another name for tyranny and abuse. The deputies, or lower house, and probably the freemen generally, were dissatisfied with this uncertain authority; and several commissions,\* none of which were successful, were appointed, to devise some change in the economy of government. In 1639, the matter was again taken up, and committed to Mr. Cotton and Nathaniel Ward. Ward was, for a time, the minister of Ipswich, and before coming to this country had studied and practised law. He is best known however, to the present age, by that strange and curious work he wrote, entitled "*The Simple Cobbler of Aggawam.*" Cotton was a distinguished clergyman in Boston, and was held in great and deserved regard for his character and talents. He has been called, and deservedly, by the venerable name of *the patriarch of New England*. Ward's labors found chief favor with the public. They consisted of one hundred laws, and were called the *Body of liberties*. Cotton's system followed very closely the Levitical code, establishing, in form and substance, a theocracy; while that of Ward was better adapted to the times in which he lived. The substance of the latter system, as given by the distinguished American Analyst, was, "that there never should be any bond slavery, villenage or captivity among the inhabitants of the colony, excepting lawful

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\* The first commission was appointed in 1635.



captives taken in the wars, or such as should willingly sell themselves, or be sold to them, and such should have the liberties and Christian usage which the law of God, established in Israel concerning such persons, morally requires : that if any strangers, or people of other nations, professing the Christian religion, should fly to them from tyranny or oppression of their persecutors, or from famine, wars, or the like necessary and compulsory cause, they should receive entertainment and succor ; that there should be no monopolies, but of such new inventions as were profitable to the country, and those for a short time only : that all deeds of conveyance, whether absolute or conditional, should be recorded, that neither creditors might be defrauded, nor courts troubled with vexatious suits and endless contentions about sales and mortgages ; that no injunction should be laid on any church, church officer, or member, in point of doctrine, worship or discipline, whether for substance or circumstance, besides the institution of the Lord : and, that in the defect of a law in any case, the decision should be by the word of God."

These laws partook much more largely of modern improvement than the code of the other divine ; but they continued in force only three years. Another system was compiled and adopted in 1648, and was the earliest collection of laws published in this country. It was drawn up by Cotton and Bellingham, and contained in one body, the laws that had been made from time to time. These were ratified by the General Court, and were then given to the world.

The forms of actions were short and simple. As early as 1649, I find actions of the case for *trespass*, on *mortgage*, for *not delivering lands*, for not performing *covenants*, for withholding debts due, &c. The magistrates issued the original process, commanding the marshal, or his deputy, to attach the goods, &c., or in want thereof the body of the debtor, and to take bond with sufficient surety or sureties for his appearance, &c. These

processes were not issued in the king's name during the reign of Charles the First, nor was there afterwards in them any recognition of the authority of the English Commonwealth. There was ever an unwillingness to acknowledge a superior power in the mother country, or to allow of appeals from the decisions of the colonial government. But necessity compelled the colonists occasionally to yield a point, at least in seeming, to secure in the end more substantial benefits. And thus it was that after the restoration they were obliged to issue legal precepts, in the name of the king. The marshal, who was originally called the "Beadle of the Society," was not required personally to make service of the precept, but might appoint any one in writing as his deputy to execute and return it. The pleadings were *verbo tenus*, and without form. The testimony of witnesses reduced to writing, and signed by them, was required by law to be put on file with the papers of the case. The record was embraced in a very brief space; containing but little more than the names of the parties, and the verdict of the jury.

The power of the magistrates in issuing process, though exceedingly dangerous, and liable to great abuse and justly complained of, was defended on the ground "that they might either divert the suit if the cause be unjust, or direct it in a right course if good:" and that it gave them "opportunity to end many differences in a friendly way, without charge to the parties, or trouble to the court." In early times a discretion was suffered, rather than expressly allowed, that would not answer in a riper state of society in the midst of a numerous population. The colonists, however, were rapidly increasing, and many towns were settled when the complaints were made of the undue authority of the rulers.

It is not to be supposed that in the very peculiar condition and economy of the early colonists there would be much occasion for our profession. There were among the magistrates several who

had been bred to the law in England, of whom were John Winthrop, Richard Bellingham and John Humfrey; and of the clergy, Nathaniel Ward. Thomas Morton however should not be passed by without notice. He was of Clifford's Inn, and came to Weston's plantation at Wessagusset, now Braintree, in 1622. It does not appear however that he pursued the profession in the colony; nor was he of a character to attract favorable regard. He was somewhat of a disturber in the plantation, and subverted all wholesome authority, so that he was seized by the magistrates of Plymouth Colony, and transported to England. He returned the following year, and was soon after imprisoned by order of the Massachusetts Government "for his many injuries offered to the Indians, and other misdemeanours." It is a matter of some question how far his punishment was deserved. By his own work it seems that he was "suddenly called before the magistrates merely to hear his doom:" still it is not to be doubted that he was liable to censure, and that he had exposed himself to the interference of the civil authority. Winthrop and Bellingham were at several times Governors of the colony, Humfrey a deputy Governor, and all of them distinguished men. These, and other leading men of the magistracy, knowing their own ability and the ignorance of most of the early planters amongst the yeomanry, were, naturally enough, and with the best intentions, desirous of covering the whole scope of their actual authority and of enlarging their power by construction; and they therefore would not be well pleased to witness the introduction of members of the most searching of all the professions, who would be inclined to stand rigidly upon the law and the testimony, and curtail the authority of the magistrates.

Ward, indeed, was more liberal, and in 1641, at the annual election, preached a discourse, wherein he declared that the magistrates ought not to give private advice, and take knowledge of any man's cause before it came to public hearing. A prin-

incipal ground of rejecting Ward's proposition was, that its adoption would render it necessary to provide lawyers to direct men in their causes. This shows, I think, something of the feeling upon the subject amongst the reigning powers.

At this time no advocate was allowed in the courts. The parties spoke for themselves where they had ability and inclination, and when they needed assistance it was given by the magistrates, without recompense. "For more than the ten first years," says Hutchinson, following the account given by Governor Winthrop, "the parties spake for themselves, for the most part: sometimes, when it was thought the cause required it, they were assisted by a patron, or man of superior abilities, without fee or reward." It was rather the domestic differences of members of the same family, than the formal organization of a commonwealth, and from the construction of the courts there was no opportunity of forming a learned bar, no room for the display of talents and legal attainments. Doubtless there were attorneys here from an early day, down to the time of the Province Charter. I find them mentioned in the records of the General Court in 1649, and elsewhere: but little, however, is known of them, and they were probably what Governor Winthrop would call *mean men*, of but little education. They appeared, it may be supposed, by special powers, which were certainly required by law in 1673, and probably by judicial requisition much earlier. By a law of 1663,\* usual and common attorneys in any inferior court were not allowed to be members of the General Court; the reason of which was that appeals lay from the lower tribunals to the General Court. It serves, however, to establish the fact that there were then those who made it their business to pursue and defend the causes of others.

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\* This is usually put down as having been passed in 1654. But in the volume of *Ancient Charters, &c.*, Ed. 1814, it bears date 1663. It is not contained in the edition of the laws printed in 1658, but is in that of 1673. This is conclusive against 1654.

The first man who fairly ventured his fortunes in the practice of law in the colony was Thomas Lechford, who wrote himself "of Clement's Inn, in the County of Middlesex, Gentleman." He came to the country in 1637 and took up his residence in Boston. He probably continued in the practice three years, when he was called up for "pleading with the jury out of court." He was "convented" before the Quarter Court, 1 Dec., 1640, and, according to the record, "acknowledged he had overshot himself, and was sorry for it, promised to attend to his calling, and not to meddle with controversies, and was dismissed." *Not to meddle with controversies*, was depriving him of his living, and making him poor indeed. He supported himself for awhile, as he expresses it in his *Plain Dealing*, "in writing petty things." Finding doubtless, that the calling of a scrivener was equally meagre and unprofitable with that of an attorney, he left the country in the following year, and returned to England, indulging in no measured spirit of hostility against the rulers and people of the Colony. The work to which I have alluded, and which he published in England on his return, was written with acrimony, from fancied or real injury experienced; but still it contained many truths, and did not deserve the severe censure with which, in former and later periods, it has been visited.

If there were any other regularly bred lawyers in the *Bay* during the seventeenth century, with the partial exception I shall presently mention, they have sunk into oblivion to their very names. Those who acted as such may have paid some attention to jurisprudence; but there was no form of admission to practice, no previous study required, and there were no exact proceedings in the courts. Indeed it may well be doubted whether there were any books of the common law in the country, excepting two copies of the following works, which the governor and assistants ordered to be imported in 1647, viz: Coke's Entries and Reports, his Commentaries and Readings on Magna Charta,

the New Terms of the Law, and Dalton's Justice. Occasionally it is mentioned that a party appeared by Attorney, as in 1652, in Middlesex, Mr. Coggan appeared as attorney to Stephen Daye, the first printer: in 1654, in the case of Ridgway against Jordan, the defendant appeared by his attorney, Amos Richardson: and in 1656, in the case of John Glover against Henry Dunster, who had been President of Harvard College, Edmund Goffe and Thomas Danforth appeared for the plaintiff. Now this Amos Richardson was, I believe, a tailor, and Coggan (John) was in mercantile business and kept the first shop in Boston. Goffe, then an old man, was for several years the representative from Cambridge, and Danforth also; and the latter, besides, filled the office of assistant and deputy-governor; but neither of them was of the legal profession.

John Dunton, an English bookseller, who was here in 1686, in an amusing work which he wrote, called his "Life and Errors," speaks of a Mr. Watson and Dr. Bullivant who attended the courts. Of Watson he says that he was "formerly a merchant in London, but not thriving there he left the Exchange for Westminster Hall, and in Boston has become as dexterous at splitting of causes as if he had been bred to it. He is full of fancy, and knows the quirks of the law: but, to do him justice, he proves as honest as the best lawyer of them all." Of Bullivant (Benjamin) he remarks, "his knowledge of the laws fitted him for the office of Attorney-General, which was conferred upon him in the revolution in Boston;" and "while he held his place he was so far from pushing things to that extremity as some hot spirits would have had him, that he was for accommodating things and making peace. His eloquence is admirable. He never speaks but it is a sentence, and no man ever clothed his thoughts in better words." The office of Attorney-General was not an established office. On some occasions a person was specially authorized to bring informations for the king or govern-

ment. Bullivant was quite distinguished as a physician. He must have possessed popular talents and address to have sustained himself in the focus of puritanism, with his views of episcopacy, and as one of the founders and wardens of the earliest church of that denomination in the colony.\* Nor would it be likely to diminish the difficulty, that he was selected by Sir Edmond Andross as one of his "confidants and advisers."

In addition to Watson and Bullivant, there are two others whose names perhaps should be introduced here. Randolph, in his letter to Povey, Jan. 24, 1687, complains of the want of "two or three honest attorneys, if any such thing in nature." "We have but two," he remarks, "one is Mr. West's creature, come with him from New York, and drives all before him." He does not mention who the other was. James Graham, who, like Bullivant, was "confidant and adviser" of Sir Edmund, I suppose was one of them. He was the Attorney-General under Sir Edmund, and was imprisoned with him, according to Hutchinson and Neal, at the time of the rising in favor of William and Mary. George Farwell, who was imprisoned at the same time, and who officiated as clerk and Attorney at the Court of Oyer and Terminer in Boston in 1687, in the prosecutions against several inhabitants of Ipswich for "contempt and high misdemeanors," was probably the other.† Graham and Farwell terminated their career in Boston on the downfall of Andross' administration. How long Watson and Bullivant continued in the Courts, I have no present means of ascertaining. Bullivant however was living and engaged in medical business as late as 1699.

The observations I have made will perhaps be sufficient to

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\* June 15, 1686.

† The mention of Farwell I derive from my friend John Farmer, Esq., of Concord, N. H., highly esteemed for his critical knowledge and minute investigations of the early history of New England. Mr. Farmer's suggestions in these matters go far to supply the defect of historical proof, and his assertions are arguments.

show the feeble existence of the profession during the seventeenth century, up to which time there had not, I believe, been a single lawyer, a native of the country. Indeed it was not till long after the charter of William and Mary that there were distinguished jurists in the Province. Amongst their first doings after the arrival of Sir William Phips with the new charter, the General Court established the Judicial tribunals on the footing on which they continued till the Revolution. Stoughton, Danforth, Cooke, and Sewall, were the first judges of the Superior Court. They were men of sound minds and large experience, but were not lawyers. But little, therefore, could be expected of them in methodical proceeding, nice application of the law, or in those rules of practice which may be called the salutary discipline of the court. Paul Dudley,\* who was a judge from 1718 to 1745, and chief justice from that time till his death in 1751, was the first lawyer who sat on the bench. He had received a thorough professional education, begun at home, and finished at the Temple in London. He introduced, it is said, many wholesome alterations and improvements in judicial proceedings. The Attorney's oath was framed in 1701, and is the same that is now in use. In the same year the General Court established the forms of writs, and authorized the courts to establish rules of practice. But for some years after, there was no real improvement, nor were strict legal forms and technical rules brought at once into use. It was necessary first to obtain a well instructed bench, and a well educated profession. Nor was this the work of a moment. It required rather, a long period of severe labor, diligent study, and intellectual discipline.

For several years after the new court was organized, and indeed after the commencement of the eighteenth century, actions of the case were brought for the recovery of lands and

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\* Founder of the lectureship in Harvard University. He was son of Gov. Joseph Dudley, of whom mention has been made in the text, and grandson of Gov. Thomas Dudley.



on mortgages, and the pleadings were akin, in legal precision and correctness, to the declarations. Even after greater exactness was introduced, there was no disposition to encourage special pleading. Dummer, in 1721, remarks with approbation, that "no special pleadings are admitted, but the general issue is always given, and special matters brought in evidence. For the quicker despatch of causes, declarations are made parts of the writ, in which the case is fully and particularly seth forth. If it be matter of account, the account is annexed to the writ, and copies of both left with the defendant: which being done fourteen days before the sitting of the court, he is obliged to plead directly, and the issue is then tried."\*

The innovation of special pleading was quite contrary to the spirit of the former and existing occasion, which was prolonged for some years, as is apparent from the remark of Dummer, I have just quoted. The growth of improvement was probably slow, for much was to be learned, and many prejudices were to be overcome. Who then were the great fathers of the healthful change, and when was its inception and fair progress? The time was not a point but a period. It commenced I suppose about the year 1702, when Paul Dudley came from England, with the commission of Attorney-General. He was ever esteemed a thorough and accomplished lawyer, and, in other respects was a learned man. John Read, who was perhaps equally learned in the law and of equal genius, was contemporary with Dudley, and aided largely in the progress of professional improvement. To him is ascribed the origin of the forms of conveyancing now in use. Dudley was Attorney-General till his appointment to the Bench, and Read continued highly distinguished at the Bar till nearly the close of his life in 1749. Succeeding these were Richard Dana, the elder Auchmuty, Shirley, and Bolland, the two latter of English birth and educa-

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\* Defence of the New England Charters.

tion, Gridley, Trowbridge, &c., under whom the profession became more and more of a science, and its practice gathered to itself respect, honor, wealth, and public influence. The history of this period in our profession is full of interest, and I would gladly dwell upon it more at large, were it in my power. But I must narrow the range of my inquiry, and draw your attention, as well as my own, to subjects partly new, and more immediately belonging to the occasion.

In regard to the history of this Bar, it scarcely becomes me to speak. Being comparatively young in the profession, and having resided but a few years in the midst of you, I know nothing, personally, of those who have gone before me,—of the distinguished members of our profession; though the lustre they shed over their favorite science has not yet faded from recollection, where it does not ascend to the twilight age of tradition. In most things there is ever much in the present that recalls the past. The praise of eye and ear witnesses, or traditional reminiscences, encircle the names of illustrious predecessors, and knit them, as it were, to our very selves by the mysterious bond, the common sympathy, of a kindred pursuit. The small class that came into professional life before and during the early period of the revolution has ceased from amongst us, leaving us nothing save the rich inheritance of their fame. Those next in order are our respected seniors, the connecting link between the early and modern history of our Bar. To them I would gladly leave the sketch of what is now become the elder day of our profession. *I said days should speak, and multitude of years should teach wisdom, but as they will not occupy the ground, I will show you mine opinion.*

The history of our Bar cannot be dated back to a very distant period. It is, at best, of but green antiquity. In relation to it we cannot be indebted to “imagination for our facts.” It wants all that indistinctness of origin, and all that beautiful combina-

tion of fact and fancy, where the light of truth and the uncertainty of tradition are inseparable; where the inception may almost shadow out a present deity, reflecting back the rich colorings of romance. There is no room to dispute whether Aeneas or Iulus was the founder, nor what divinity presided at its institution.

Suffolk is coeval with the colony, and Middlesex was established nineteen years afterwards. They belong to those simple days of old, when heresy was punished with banishment and stubbornness in children, cursing or smiting parents, idolatry, blasphemy, consulting with a familiar spirit, &c., were capital offences. When the title of Mr. was honorable, and Josias Plaistowe, for petty larceny, was, with other punishment, sentenced to be called Josias, and not Mr. Josias as he used to be; when sergent Perkins was ordered to carry forty turfs to the fort for being drunk; when Daniel Clark was fined forty shillings for being an immoderate drinker, and John Wedgewood was set in the stocks, for being in the company of drunkards; when Henry Felch was fined and admonished for his rash speaking, and Captain Lovel was admonished to take heed of light carriage, and Edward Palmer for his extortion in taking two pounds thirteen shillings and fourpence for the wood work of Boston stocks, was fined and set in the stocks of his own making; and when for mean men to "wear gold or silver lace, or buttons, or points at their knees, or to walk in great boots, or women of the same rank to wear silk or tiffany hoods or scarfs," was visited with a severe penalty.

It was a subsequent century that saw us springing into existence, when many changes had taken place in the early habits of society; when the simplicity of the fathers had yielded, in a degree, to the refinements consequent on the increase of wealth and population; and when the proceedings before the judicial tribunals were become more technical and complex.

The act incorporating this County was passed April 2, 1731, and took effect on the tenth day of the following July. The towns and places included, were Worcester, Lancaster, Westborough, Shrewsbury, Southborough, Leicester, Rutland, and Lunenburg, all which had previously been in Middlesex; Mendon, Woodstock, Oxford, Sutton, including Hassanamisco, Uxbridge, and the land granted to sundry inhabitants of Medfield, which were taken from Suffolk, and Brookfield from Hampshire.

The first Court of Probate was held on the 12th of July, and the first Court of Common Pleas on the tenth of August, 1731, when a sermon was preached by Rev. Mr. Prentice, of Lancaster, from the following appropriate text:—"And said to the judges, take heed what you do; for ye judge not for man but for the Lord, who is with you in judgment. Wherefore now let the fear of the Lord be upon you, take heed and do it: for there is no iniquity with the Lord our God, nor respect of persons nor taking of gifts." The first term of the Superior Court was held on the fourth Wednesday in September (22d), 1731. When were present Benjamin Lynde, Chief Justice, and Paul Dudley, Edmund Quincy, and John Cushing, Justices.

At the commencement of our County history, the profession of the law in the Province had begun to assume, as we have already seen, a distinct form and to be pursued as a science. So great had been the change, that at this era there were but few peculiarities in the practice. For a few years the evidence in each case, with the names of the witnesses, was put down on separate pieces of paper, endorsed by the clerk and filed with the other papers in the suit. The sheriff frequently appointed one specially as deputy to make service of a precept, who returned his doings under oath. The pleadings at first were quite short, and were made upon the writ. But they soon became more technical and accurate. Pleas in abatement were almost of course in every action. The usual form in real actions

was ejectment, and trespass and ejectment, not the English form of fictions; and there are some early pleas of disclaimer to part, and general issue to the remainder, much as at present. As early as 1747, the expression *plea of land* was in use in a declaration drawn up by Stephen Fessenden,\* I believe; and another in 1768 by James Putnam,† and again in 1773, by Francis Dana,‡ the late chief justice. The two latter were students of Judge Trowbridge. This form of expression seems to have been adopted advisedly from the ancient English forms, notwithstanding the opinion of a very learned Jurist who has recently censured it.§ Most of the other writs in real actions that now prevail, were in use. Imparlanes for the purpose of vouching in the grantor were common up to the time of the Revolution. In personal actions the most common form of remedy for money lent was debt on bond, but rarely, for many years, trespass on the case. Case on account, for goods sold and delivered, was in use from the incorporation of the County, and elsewhere much earlier. The other personal actions were much the same as those now in general use.

It is not my purpose, even had I the time, to give a complete history of judicial process, through all its varieties, up to the present time. This has already been done by one in every way competent to the undertaking.||

There were but few lawyers who resided in the county, and practised in our courts, before the revolution. Our forum was crowded with professional gentlemen from other places, who were in constant attendance, and bore a large share in the legal conflicts. Many of them were distinguished men in our judicial and political history. Amongst them were—

JOHN READ, *Boston*, Harvard College, 1697; here 1733, &c.

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\* Clark vs. Townsend. † Banks vs. Green. ‡ Gibbs vs. Thayer. § See Bliss' Address to the Bar, and his review of *Jackson on Real Actions*, I. Amer. Jurist. || See the address of Mr. Bliss to the Hampshire Bar in 1826, and his review of *Jackson on Real Actions*. American Jurist, Vol. I.

To him we have before alluded. He was long in practice, and enjoyed much public influence, as a member of the provincial government. He was called, by James Otis, "the greatest common lawyer this country ever saw."\*

RICHARD DANA, *Charlestown* and *Boston*, Harvard College, 1718; here from 1739 to 1754. He was learned in the profession; some forms of precedents of declarations, evincing legal skill and science, and drafted by him, are still in use. He was father of Francis Dana, late Chief Justice of our Supreme Court.

JEREMIAH GRIDLEY, *Boston*, Harvard College, 1725; here from 1759 to 1765. He has been called "the father of the Bar in Boston." But Read preceded him many years. Gridley was very eminent in his profession. He was the preceptor of Otis, Thacher, and other distinguished jurists. He argued the question on the *writs of assistance* in opposition to James Otis, his former pupil. When Trowbridge was appointed to the Bench, Gridley succeeded him as Attorney-General.

WILLIAM BRATTLE, *Cambridge*, Harvard College, 1722; here from 1736 to 1754. He was of some celebrity in the popular mind; and was, at various times, minister, physician and lawyer. His attainments were various rather than profound. Hence the description given of him by the late facetious Mr. Foxcraft, of Cambridge, that he was "*a man of universal superficial knowledge.*" In his various professions it is certain that he enjoyed much confidence and respect, and exercised an extensive and beneficial influence.

EDMUND TROWBRIDGE, *Cambridge*, Harvard College, 1728; here from 1732 to 1767. He constantly attended our courts thirty-five years. He was many years Attorney-General, and was made Judge of the Superior Court of Judicature in 1767.

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\* Tudor's Life of Otis, p. 12.

This office he held till the revolution. Perhaps the Bar of Massachusetts never had a more thorough and diligent lawyer than Trowbridge. To him Parsons was deeply indebted, particularly for his *historical knowledge* of what was peculiarly our law. "He commanded the practice in Middlesex and Worcester and several other counties."\* His name and his praise are with the whole profession.

ROBERT AUCHMUTY, the *elder* and *younger*, *Boston*; here from 1734 to 1761. They were both eminent barristers. The former was agent of the province in England; and laid the plan of the expedition to Cape Breton, which terminated in the conquest of Louisburg. The latter was Judge of the Admiralty Court from 1768, for several years.

BENJAMIN KENT, *Boston*, Harvard College, 1727; here from 1757 to 1767. Kent was for several years the clergyman in Marlborough. But becoming dissatisfied with his vocation, he took measures to obtain a dismissal; and devoted himself to the law. He was not distinguished in the profession, as most of the others I have named; coming late into practice he was deprived of an advantage that no assiduity could entirely overcome.

JOHN OVERING, *Boston*; here from 1731 to 1736. He was for several years Attorney-General, before Trowbridge.

WILLIAM SHIRLEY, *Boston*; here in 1733, &c. He was of English birth and education, and commenced practice in Boston about the year 1733, where he continued in business till he was appointed Governor of the Province in 1740.

WILLIAM BOLLAN, *Boston*; here in 1733, &c. He was also of English birth and education, and was in practice some years with distinguished reputation as a lawyer, and as *Advocate-General*. He was agent of the Province in England, and served with great fidelity and success.

TIMOTHY DWIGHT, *Northampton*; here from 1740 to 1742.

\* Preface to *Novanglus*, &c., written by the elder President Adams.

He was admitted to practice in August, 1721, and "continued many years in reputable practice, and was afterwards a judge."\*

JOSIAH DWIGHT, *Springfield*; Yale College, 1736; here from 1740 to 1746.

BENJAMIN PRATT, *Boston*, Harvard College, 1737; here in 1757. He was a native of Cohasset, and is universally allowed to have been endowed with fine genius, and to have been equally conspicuous for taste, and for professional and general literature. He was afterwards Chief Justice of New York.

OXENBRIDGE THACHER, *Boston*, Harvard College, 1738; here in 1759, &c. He was here less frequently than others I have named. He was at first a preacher, but was obliged to relinquish the desk, owing to the feeble state of his health. He became conspicuous at the bar, and in political life. He was also distinguished as a casuist, metaphysician, and general scholar.

JOHN WORTHINGTON, *Springfield*, Yale College, 1740; here from 1749 to 1772. His practice was extensive in his own county, in Berkshire, and Worcester. He was distinguished as a gentleman, a scholar, a jurist, and for forensic eloquence.

JOSEPH HAWLEY, *Northampton*, Yale College, 1742; here from 1752 to 1756. His practice, as well as Worthington's, was extensive in other counties. He had previously studied divinity, and had preached, but was never settled. He was very learned in the law, and deep in *black-letter*. His history and worth belong to our public history for the twenty years preceding the Revolution.†

JONATHAN SEWALL, Harvard College, 1748; here from 1764

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\*Bliss. †Of Worthington and Hawley, who were for many years the leaders in the profession in Hampshire, a very full and interesting relation is given by Mr. Bliss in his address to the Bar. They were for a long time prominent men. They succeeded in establishing *Bar rules* in their own county before the Revolution. One of these rules required three years as the term of study preparatory to admission. Previously the term of study was uncertain and short.



to 1768. He commenced practice in Charlestown, and was an able and successful lawyer. The elder President Adams was his intimate friend, though opposite in politics, and has done justice to his memory. Hutchinson was instrumental in creating the office of *Solicitor-General* for Sewall. He succeeded Gridley in the office of *Attorney-General*. His eloquence is represented as having been *soft, smooth, and insinuating, which gave him as much power over a jury as a lawyer ought ever to possess*. It is proper here to take notice of one fact in relation to Sewall. He commenced the suit in May, 1769, in favor of a negro against his master for his freedom.\* The late Chief Justice Dana was counsel for the defendant. The suit terminated the following year in favor of the negro; and I believe it was the first case where the grand question was settled abolishing slavery in this State. The case of the negro Somerset, which Blackstone commends so highly, and which has been a matter of self gratulation in England, was not settled till 1772; two years after the decision in favor of James.

Mr. Sewall, having attached himself to the royal party, was compelled to leave his country in the Revolution.

JOHN ADAMS, *Boston*, Harvard College, 1755; here from 1758 to 1769. President Adams studied law in Worcester, with James Putnam, and kept school in the same town. His acquaintance with the people of the county secured him extensive business. At that day the most distinguished lawyers attended the circuits with the judges. After 1769, his other professional engagements, and his increasing political and public employments, probably prevented his further attendance on our courts. His history, like that of General Washington, is, in a great degree, the history of his country.

SIMEON STRONG, *Amherst*, Yale College, 1756. He practised

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\* James vs. Richard Lechmere, Esq., of Cambridge.

with learning and sagacity in this county from 1765, till the courts were closed in 1774, and after they were again opened, during the remainder of the Revolution and for many subsequent years. He was afterwards a distinguished Judge in the Supreme Court. Judge Strong was a preacher several years before he studied law. He was "quite a metaphysician," and in the law excelled in his knowledge of real actions, and the science of special pleading.

FRANCIS DANA, *Cambridge*, Harvard College, 1762. He attended the courts here from 1771 to 1774. He was afterwards Ambassador to Russia, and the learned, accomplished and upright Chief Justice of the Commonwealth for many years.

CALEB STRONG, *Northampton*, Harvard College, 1764. Gov. Strong practised in this county as early as 1779. He continued his business here many years, and I believe till he finally left the Bar, in 1800. Gov. Strong held a distinguished rank at the Bar, as possessing extensive legal acquirements. He was also remarkable for his punctuality, and for the careful preparation of his cases. With the Jury he was a successful advocate. His address, it is said, was pleasing and insinuating, and his eloquence well adapted to convince. At the Bar, as well as in every other walk of life, he manifested singular purity of motive and character, and spotless integrity.

I have been led insensibly beyond my original intention, which was simply to mention the names of some of the distinguished lawyers from other counties, who practised here before the Revolution. I have taken a brief notice of each of them; but however pleasant it may be, it is not my design, nor will it be consistent with the plan I have marked out for myself, to pursue this digression further. The materials for the biographies of some of them exist in abundance, and it is much to be desired that the Bar of each county should take measures to preserve the history of the profession, and the story of its former members,

before the one and the other are swept from memory and tradition.

The greater part of the list I have partially described, as will doubtless be observed, is composed of the most distinguished names in the profession; and they are such as would do honor to the profession and the public at any time, and under all circumstances.

In our own county, I find no rules of practice adopted by the Bar during the last century, and but two rules of the Court of Common Pleas, although the Judiciary had had the power from the time of the charter of William and Mary to establish all proper forms and modes of proceeding. One of these rules was in 1757, when Ruggles came upon the Bench. It forbade any, excepting Attorneys allowed and sworn in some Court of justice in the Province, to appear for another unless specially authorized by a power duly executed and acknowledged, and to be used only in the particular specified. The necessity of this rule will be manifest, when we consider the number of those who were not bred to the profession, the mere *legal brokers*, who found their way into the business of the Courts, and occupied the ground of the better educated, the more intelligent and intellectual. The other rule was made in March, 1773, setting forth a petition of the Attorneys of the Court, that they are by law required to be empowered under hand and seal to appear for their clients, and then allowing the Attorneys in each action to tax for such power the sum of one shilling and sixpence. The term of study for a long time seldom exceeded two years, and the libraries were scanty and imperfect. Essex, Suffolk and Hampshire had adopted Bar Rules previous to the Revolution, and preceding ours by at least a quarter of a century.

There were many individuals in this county before 1775, who attended the courts, but who were not educated to the profession. They were of a class possessing perhaps some influence in their

own neighborhood, with some aptitude in transacting ordinary business. They were the forerunners, and occupied the ground, of better educated and more respectable men. Some of them may have been useful; while others were of bad example in the community, in increasing the facilities for litigation, and encouraging a spirit that is always sufficiently active and operative in the general mass of society. I find that some of them were in large business, of the more common kinds, in the profession, for a long succession of years. It is unnecessary to mention the names of all of this class. The names of the most prominent were,

Elisha Bisbee, from 1732 to 1734.

Joseph Dyer, of Worcester, shopkeeper, 1736 to 1740.

Cornelius Jones, of Springfield, a famous pettifogger, appeared here in 1733 and 1739.

John Grout, of Lunenburg, from 1735 to 1750. He was in extensive practice here and in other counties.

Nathaniel Russell, of Littleton, from 1744 to 1766.

Jabez Ward, 1745 to 1748.

John Brown, 1745 to 1752.

Nathaniel Green, of Worcester, 1749 to 1762.

Duncan Campbell, of Oxford, &c., from 1752 to 1766.

William Rawson, jun., &c., &c.

There are many others, whose names I have collected, but it is of no importance to mention them.

I gladly pass by the whole of this class, that once hung upon the skirts of the profession and *soiled its addition*, and feel pleasure in dwelling for awhile upon the names of those highly respectable men, who adorned this bar previously to the Revolution. The whole number of resident professional gentlemen in this county, from its incorporation to the closing of the courts in June, 1774, was but seventeen. Their names as follows, viz. :

Joseph Dwight,

Joshua Atherton,

Nahum Ward,	Daniel Bliss,
Timothy Ruggles,	Joshua Upham,
Joshua Eaton, jun.,	John Sprague,
Christopher J. Lawton,	Rufus Chandler,
Stephen Fessenden,	Daniel Oliver,
James Putnam,	Nath'l Chandler,
Abel Willard,	Elijah Williams.
Ezra Taylor,	

I propose making a slight sketch of each ; premising, however, that from the lapse of time, and the scantiness of materials, the notices in general must be quite imperfect.

JOSEPH DWIGHT, the son of Henry Dwight, of *Hatfield, Mass.*, was born in that town Oct. 16, 1703, and graduated at Harvard College in 1722. He was admitted to practice in this County at the first term of the Court of Common Pleas, Aug. 12, 1731, and in Hampshire March term, 1733. He probably did not continue here long in professional pursuits. He resided in Brookfield, and represented that town in the Provincial Legislature eleven years, between 1731 and 1752.

In 1749, he was speaker of the House of Representatives ; at one time a member of the Council, and was highly distinguished as a Military Officer. He was a Brigadier General, then an office of dignity, and commanded a regiment in the expedition against Louisburg in 1745, and conducted himself with such skill and bravery, in the operations against that place, as to call forth the particular commendations of Sir William Pepperell in his despatches to Gov. Shirley. He was a judge of the Court of Common Pleas for the County of Worcester from 1743 to 1750. Between 1751 and 1754, it would seem, he removed to Stockbridge, and afterwards to Great Barrington. In Berkshire, he was also appointed to the bench of the Court of Common Pleas. He died in Great Barrington, June 9, 1765, aged 62. His reputation at the bar must have been respectable ; while at the same

time he possessed, like other leading men in the country at that time, large influence within the sphere of his action, and united, as was then not infrequent, the pursuit of military, with that of civil office.\*

NAHUM WARD, who stands next on the list, was of *Shrewsbury*. He was one of the committee which, in behalf of that place in 1727, prayed the General Court for the grant of full municipal powers. He was admitted to practice in this county at the same term with Gen. Dwight; and continued some years at the Bar. From the declarations of his I have met with, he would seem to have been correct and technical, particularly in real actions. He was much engaged in practice; but I have no means of determining, either from history or tradition, what rank and reputation he secured to himself in the walks of the profession. He was appointed a Judge of the court of Common Pleas in 1745, while Dwight was upon the bench, and continued in office for some years. This appointment however is no proof of his qualities as a jurist. Men were selected for the office for various considerations. An acquaintance with the usual business, the ordinary education of the times, respectability of private character, and wholesome influence in the circle in which they moved, were sufficient recommendations, without the aid of much professional doctrine. Of Ward I have learned no more than what I have here related.

TIMOTHY RUGGLES, born in *Rochester*, Plymouth County, Oct. 11, 1711, was the eldest son of the Rev. Timothy Ruggles, a clergyman in that place. He graduated at Harvard University in 1732, and contrary to the preference expressed by his father, soon afterwards entered upon the study of the law. He represented his native town in the Provincial Assembly in 1736, at the age of twenty-five, and procured the passage of an act, still in force, prohibiting sheriffs from filling writs. He practised

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\* Gen. Dwight was in mercantile business, in Brookfield, for some years.

some years in Rochester, whence he removed to Sandwich. His reputation was so great that he was early and frequently employed in the adjoining counties of Barnstable and Bristol, and was the principal antagonist of Col. Otis in causes of importance. He occasionally attended the courts in Worcester, early in his professional career; and in 1734, 1735 and 1738, his name appears often in our records. He removed to Hardwick in this county, probably as early as 1753. From that time till 1757, he was in practice in this county, when he was appointed Judge, and in 1762, Chief Justice of the Court of Common Pleas; which office he held till the Revolution. He was also appointed Surveyor General of the king's forests; an office that was a source of profit, attended with but little labor.

Besides professional employments, Ruggles was much engaged in military and political occupations. In 1755, he received an appointment in the army, and held the rank of Colonel under Sir William Johnson, in the expedition against Crown Point. In September of the same year he was next in command to Johnson at the battle of Lake George, where the French army under Baron Dieskau met with a signal defeat. He was actively engaged in the campaigns of 1756 and 1757, and in the following year, with the commission of Brigadier General, was under Lord Amherst, and served with him in his expedition against Canada in 1759 and 1760.

For several years General Ruggles represented the town of Hardwick in the Provincial Assembly. In 1762 and 1763, he was speaker of the House. In consequence of the grievous exactions of the British Government, delegates were chosen by the Legislature to meet the delegates from the other colonies at New York, to seek out some possible relief from immediate and threatened evils, by a representation of their sufferings to the king and Parliament. Ruggles was chosen as one of the delegates on the part of this Province, and had the honor of being

selected as President of that celebrated Congress, where were present some of the most distinguished men from eight of the other colonies.

At this meeting, among other things, an address to the king was voted, and certain resolves were framed,\* setting forth the rights of the colonies, and claiming an entire exemption from all taxes, excepting those imposed by the local assemblies. Ruggles refused his concurrence in the proceedings; for which, on his return home, he was censured by the House of Representatives, and was reprimanded by the Speaker in his place. It is due to him however, to remark, that, according to Hutchinson, when he consented to be a delegate, he expected that nothing more would be required of him than was expressed in the vote of the assembly; and left the house in order to prepare for his journey; that afterwards, on learning that the House had voted to instruct the delegates to insist upon the exclusive right of the Colonies to tax themselves, he determined not to serve, but was finally prevailed with by his friends.

In 1774, he was made *Mandamus Councillor*, accepted the office, and was qualified. Continuing firm in his adherence to the party of the loyalists, with whom were all his predilections, he was compelled to leave the country, and all his large estates were confiscated. He remained in Boston during the siege: afterwards spent a few months at Long Island, and then went to Nova Scotia, where he died in 1798, aged 87.

There were few men in the Province more justly distinguished than Ruggles; and few who were more severely dealt with in the bitter controversies preceding the Revolution. Hence his name has come down to us with a degree of obloquy that should only attach to the unprincipled and vile. Like many others who joined the royal party, he was a true friend to his country. He probably believed that the power of Great Britain could not be

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\* October 19, 1765.



withstood, and perhaps may have mistaken the deep seated enthusiasm of the people for a mere spirit of party, and a short-lived effervescence. Still he was one of those who looked forward, though at a more distant day, to the time when, in the natural course of events, the colonies must strengthen and ripen into independence, and, as he was in the habit of expressing it, would "fall off from the parent state, as ripe fruit from the tree."

As a lawyer, Ruggles was sound and ingenious; as a speaker, clear and forcible; and though not possessing the fascinations and classical eloquence of James Otis, he brought the energies of a powerful mind into debate, and convinced where mere eloquence would have only dazzled. As a military officer he was distinguished for cool bravery, and excellent judgment and science in the art of war; and no provincial officer was ever held in higher esteem, for these qualities, by those in chief command.

Amid his various occupations, he found time to devote to the avocations of home; while his extensive property, and his taste for agriculture, and its kindred pursuits, gave him the means, as he possessed the inclination, of being of service to his fellow-citizens in his own neighborhood, where the population was sparse, and improvement slowly followed in the rear of example.

I cannot better conclude this notice, imperfect as it is, than in the closing words of an interesting biographical sketch of this man, written by one of the junior members of our Bar:—  
"Brigadier Ruggles in his person was large, being much above six feet. His appearance was commanding and dignified; his complexion was dark, and his countenance expressive and bold. He was attentive to his dress, but avoided ceremony. \* \* \* \*  
His wit was ready and brilliant, his mind clear, comprehensive and penetrating; his judgment was profound, and his knowledge

\* C. C. Baldwin, Esq., Worcester Magazine, Vol. II.

extensive. His abilities as a public speaker placed him among the first of his day ; and had he been so fortunate as to embrace the popular sentiments of the times, there is no doubt he would have been ranked among the leading characters of the Revolution."

JOSHUA EATON was a character of an entirely different sort. He was born in *Waltham*, then a part of Watertown, Dec. 15, 1714, and graduated at Harvard University, "with reputation and esteem," in 1735. Soon after, he commenced the study of law in Cambridge, with Judge Trowbridge, and opened an office in Worcester, in 1737. His parents were disappointed that he chose this profession, being desirous that he should study divinity. They perhaps, like other good people of that day, looked upon the legal profession with a feeling approaching to horror, and considered the service at the altar as the only proper ministration for an educated man. Induced by the wishes of his parents, and partly I presume by the structure of his own spirit, he left the courts as nearly as I can ascertain, in the fall of 1743, having previously pursued the study of divinity. Soon after he began to preach, he fell under the censure of the church in Worcester, as appears by the following extract from his diary : "Nov. 25, 1743. The church was pleased to restore me to Christian privileges, without any acknowledgment, and gave as a reason for what they had done in censuring me, that they looked upon me as being actuated by an overheated brain."

Mr. Eaton was settled in Leicester South Precinct, now Spencer, Nov. 7, 1744, and died there in April, 1772. He seems to have been a man of great simplicity of character, and of fervent piety, and to have possessed more warmth of feeling than reach of intellect. A peculiar constitution and temperament, such as we may suppose his to have been, may have been influenced by many exciting causes. He may have been affected by the preaching of Whitefield, or by the contagious sympathy on

religious subjects that then prevailed. This is indeed a gratuitous supposition, though it may be a true one, and it certainly gathers title to credence from the very fervor of Eaton's character and sanctity. The excitement occasioned by the preaching of Whitefield, and the influence he produced in New England, were great, sometime before Eaton left the Bar. Individuals in every walk of life were already led captive by the eloquence of the preacher, that covered over his thinly disguised fanaticism; and it was not till the work was well nigh accomplished, that the officers of the University bore testimony against the man, his modes, and doctrines.

In relinquishing the practice, Eaton lost all regard for the profession, and its intellectual conflicts. Soon after he was settled, viz.: in February, 1744 (O. S.), he was called to attend to some business at Worcester; but "Oh!" said he, "the tumult and dissipation and snares that attend the courts. I think I would not return to the practice of the law on any consideration." And doubtless he had some reason for his exclamation, as the sittings of the courts were generally then, and even down to the commencement of the present century, attended by a great gathering of people, who exercised themselves in the various sports and indulgences that are prevalent on public days.

Of Eaton's standing while at the Bar, which he left at the age of thirty, I have no means of knowing, save from his biographer, who remarks that "all who had any knowledge of him, entertained an opinion of him as an honest, fair, just, and faithful practitioner in the law department. As being indued with good natural powers; that he early shone with a promising lustre in the knowledge and practice of the law, and had the fairest prospect of acquiring to himself a good and great name in that profession, and an ample fortune to his family; all which he forsook, and made a willing sacrifice of worldly prospects and secular interests to the brighter views of immortality, and com-

menced a student in the law of his God, and in the gospel of his son; and by close application, and the blessing of God upon his studies, he made great proficiency in the sacred science, and soon became a scribe well instructed in the kingdom of God.”\*

CHRISTOPHER JACOB LAWTON stands next in the catalogue, and of him I know but little. It appears that early in the last century he lived in *Springfield*, and afterwards in *Suffield*; in which places, for several years, he was in pretty extensive business, before he was admitted to the Bar. The date of his admission is in 1726, in the old county of Hampshire. I find by a deposition of his, written in a fair hand in April, 1733, that he then resided in Suffield, engaged in professional pursuits. In a few years after he removed to Leicester, and appeared in our courts from 1740 to 1751. While here, I do not gather that he enjoyed any large share of fame, or that he was engaged in important business in the profession. His name appears frequently on the records in ordinary cases.

STEPHEN FESSENDEN, a native of *Cambridge*, and a graduate of Harvard University, in 1737, opened an office in Worcester, at least as early as 1743, and perhaps earlier. He may indeed immediately have succeeded Joshua Eaton, jun., in professional business in that town. I do not trace him in the courts after 1747. He sold his estate in Worcester to Col. Putnam a few years afterwards. He was not of great mark in the profession, and has left but few and indistinct traces upon posterity.

JAMES PUTNAM, the seventh in point of time, but perhaps the first in distinction, was born in 1725, in that part of Salem that is now included in *Danvers*. He graduated at Harvard University in 1746, in the same class with the venerable Dr. Holyoke, who for so many years survived his classmates, his own age, and

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\* A volume of Mr. Eaton's sermons was published in 1773, together with a funeral sermon, and a biographical sketch written by Rev. Eli Forbes, of Brookfield. These sermons, in point of talent, exemplify the character of Mr. E. as I have endeavored to describe it.

a host in succeeding years. He studied law in Cambridge with Judge Trowbridge, who ever after remained his firm and confiding associate and friend. On finishing his legal studies in 1748 or 1749\* he opened an office in Worcester. At that time I think Dwight and Lawton were the only lawyers at the Bar, in the county. Ward was then on the bench; Ruggles was still in Plymouth County; Eaton had changed his profession; Fessenden had probably removed from the town and county. Lawton was of secondary consideration; and Dwight was much engaged and frequently absent in military expeditions.

Putnam came into business under favorable auspices. The population of the county was increasing rapidly, and the business in the Courts was making equal progress; but it was chiefly engrossed by distinguished jurists from Middlesex and Suffolk, who occupied a large portion of the *debatable territory*. The advantages in studying with Judge Trowbridge were at all times great, and Putnam had doubtless enjoyed his full share of them. From his education and legal attainments he was immediately brought into the field, and was compelled to enter the lists with Trowbridge, Hawley, Auchmuty, Worthington, Pratt, Gridley, and other distinguished masters of the day. This gave him an early opportunity of disciplining his powers of mind, and gaining that aptness in debate, and that tact in the management of causes, which are the result of the early and habitual practice so few of us at the present day possess. His office was soon thronged with clients, whose confidence he early acquired, and ever afterwards retained. He soon became eminent as a well read lawyer, skilful in pleading, and safe in counsel. He was

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\* Allowing two years for the term of study. Judge Trowbridge certainly would not dismiss a student with a shorter novitiate. He was earnest for a longer period of preparatory study. At a later date, when the late Chief Justice Dana entered his name in Trowbridge's office, the latter recommended to his pupil to pursue his studies *seven years*, before coming to the Bar. The pupil pursued the advice of his instructor, and in process of time followed him in sound learning, and in dignity of office, *haud impari passu*.

retained in the most important causes through the whole of his career, and widened his sphere of usefulness and fame by a successful cultivation of his powers as an advocate. He was thus continually called to attend the Courts in Middlesex, and Hampshire, and occasionally in Suffolk, where at one time he was engaged in the celebrated case in which the title to a large part of the land on Beacon Street was in dispute.

Putnam possessed a large library for the times. This, in the general scarcity of law books, particularly in the interior counties, gave him an advantage that in this day of abundance, I had almost said superabundance, we can hardly estimate. This advantage he turned to the best account by a methodical habit of study, and a diligent arrangement, that enabled him to make the labors of others contribute to his own resources. He obtained so high a rank in his profession, that he was appointed by the king Attorney-General of the Province, when Jonathan Sewall was raised to the Bench of the Court of Admiralty. He was the last Attorney-General under our *ancient régime*. Soon after this, the clouds of the Revolution, that had long been gathering, threatened an immediate storm; and Putnam, who was firm and zealous in his loyalty to the British Government, was forced to take refuge in Boston. From Boston he accompanied the English army to New York; thence he went to Halifax, where he embarked for England in 1776.

On the organization of the government of the Province of New-Brunswick in 1784, Putnam was appointed a member of his Majesty's Council, and a judge of the Supreme Court. He resided in the city of St. John, and continued in office till his death, 23 October, 1789, at the age of sixty-four.\*

While on the bench, Judge Putnam served with fidelity and distinction, and well sustained the reputation he early acquired in his native land. He was not so remarkable for fluent speak-

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\* His second wife was a sister of Judge Chandler, of Worcester.

ing as for sound reasoning, forcible statement of argument, and an excellence of judgment that was seldom at fault. He is represented to have been "stern as a judge, but patient, and inflexibly just." Though reserved in social life, "his wit and humor were irresistible." The following observation made to a descendant of his, by one now on the bench of the Supreme Court in New-Brunswick, though *somewhat* exaggerated in its tone, shows the estimation in which he was held in that Province, viz.— "Judge Putnam was an *unerring lawyer*, he was never astray in his law. He was, I am inclined to think, the best lawyer in North America."\* Judge Trowbridge, who knew him from the beginning, through a long career, and the late Chief Justice Dana, who became acquainted with him in the zenith of his professional fame, have borne testimony to the learning, character, and talents of Putnam. Many accomplished lawyers received their education in his office: among them were the elder President Adams, and others whom I shall presently mention.

ABEL WILLARD, the earliest lawyer in the north part of the county, was the son of Col. Samuel Willard, of Lancaster, who for some years was one of the Judges of the Court of Common Pleas. The son was born in *Lancaster*, January 12, 1732, graduated at Harvard University in 1752, and studied law in Boston, with Benjamin Pratt, the distinguished scholar and jurist, whom I have before named. He was admitted to the Bar in this county, November term, 1755. He at once went into extensive business in his native town, and devoted his time and opportunities to the profession, till the period of the Revolution. His talents were quite respectable. He was regarded as a sound jurist, and much reliance was placed upon his opinion. No one was ever a greater benefactor in the neighborhood in which he lived. Instead of fomenting quarrels, and lending himself to the complaint of every one who might come to him with a list of

\* Ex. rel. Chs. S. Putnam, Esq., of Fredericton, New-Brunswick.

grievances, he did all in his power to check the angry passions of clients, and promote peace. He would frequently accompany a client to the party complained of, and succeed in reconciling their differences. Indeed, so far did he overcome the prejudices of the many, then entertained against the profession, that he was emphatically termed *the honest lawyer*.

Willard possessed that true modesty that ever marks the ingenuous mind; and, although of a cast of character approaching somewhat to timidity, he was full of moral courage, of stern integrity, and unyielding purity of principle. In his person he was tall and of good figure. In his disposition he was mild and conciliating, and his good qualities were marked in his benignant expression.

In September, 1770, he formed a partnership in his profession with the late Judge Sprague, of Lancaster, which is believed to have been the earliest connection of the kind in the County of Worcester. He might have remained in that town in peace and respect, and indeed with high personal consideration, during the invading bitterness, and the easily adopted suspicions and prejudices of our Revolutionary struggle. But alarmed at the approaching tempest, and, with many others, believing that it would overwhelm everything in its course, he resorted to Boston during the impending danger, when the character of the contest became at once fixed, and it was impossible again to pass the dividing line. He left the country during the war, and died in England in 1781. His widow\* survived him, and died in Boston but a few years since.

EZRA TAYLOR was of *Southborough*, and practised law in that place from 1751, if not earlier, till the Revolution. He was, during the whole time, in very extensive business. For some years he was one of those who prepared cases for court, and then engaged the aid of regular members of the profession; but

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\* A daughter of the late Rev. Mr. Rogers, of Littleton.



he was not educated to the Bar. From relations that have been made to me, and from the circumstance that in 1773, he joined with the Attorneys of the court, in their petition to be allowed to tax costs for *powers of Attorney*, I am inclined to think that he was duly called to the Bar. He was a family connexion of Judge Trowbridge,\* and procured for him many professional engagements in this county. During the Revolution he removed to Gardiner, in Maine, where he practised law, and died some years since, at quite an advanced age.

JOSHUA ATHERTON was born in Harvard, June 20, 1737. He was fitted for college by the Rev. Mr. Harrington, of Lancaster, and graduated at Harvard University in 1762, in a distinguished class.† He studied law in Worcester with James Putnam, and partly, perhaps, in Lancaster, with Abel Willard. He was admitted to this Bar, May term, 1765. He opened an office in Petersham, a few months after his admission, and there continued in professional business till 1768; when he removed to Litchfield, and soon after to Merrimack, and in 1772, to Amherst, on the establishment of that place as the shire town of the new County of Hillsborough, in New Hampshire. He died in Amherst, April 3, 1809, aged 72.‡

Atherton was here when young in his profession, and for a time too short to gain much distinction. He afterwards rose to eminence in New Hampshire; was Attorney-General, and filled other important offices. He possessed the reputation of a man of strong powers of mind, and of sound learning in his profession.

DANIEL BLISS, contemporary with Atherton, was the eldest son of Rev. Daniel Bliss, a clergyman in Concord. The father

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\* He married Judge Trowbridge's sister. † Francis Dana, the late Chief Justice.—Vice President Elbridge Gerry,—Israel Atherton, brother to Joshua, and a celebrated physician,—Jeremy Belknap, the historian,—Perez Fobes, late professor at Brown University,—and several other laymen and clergymen of good reputation, were of this class. ‡ His wife was Abigail, daughter of Rev. Thomas Goss, of Bolton, in this county.

was a native of Springfield. The son was born in *Concord*, in March, 1740. He was educated at Harvard University, and graduated in 1760. He was designed by his parents for the ministry, to which also he himself seemed inclined by his own taste and temperament. Soon after leaving college, he became acquainted with the family of Col. John Murray, of Rutland, whose eldest daughter he afterwards married. He read law with Abel Willard, and was admitted to the Bar in this County, May term, 1765. Soon after this he opened an office in Rutland, and became engaged in pretty extensive business, till his removal to Concord about the year 1772. He had a high standing at the bar, while he was here, being well versed in his profession, and enjoying a good reputation as a general scholar, and as a man of high moral and religious principle. His cast of character resembled very much that of the excellent man with whom he studied the profession. He possessed, besides, fine personal address, and that easy and dignified bearing which marked that noble race, now fast fading away from our earth—*the distinguished gentlemen of the old school.*

From his family connection, Bliss became somewhat imbued with principles favorable to the prerogative; but was never a bitter nor a warm partisan. On his removal to Concord, he was solicited, by the leaders of the popular party, to join the cause of his country; for he was a man of great popularity, and might have been of essential service, had he aided in resisting royal aggression. He however was moved by various considerations to decline the offer. His temperament led him to seek peace; he believed in the overwhelming power of the British; his oath of allegiance awakened scruples of conscience; his ties of family, friendship, and society, gave force to his other arguments and objections. That he loved his country, and that he believed that his countrymen would vigorously fight, I have no doubt. A little while previous to the opening of the grand drama at

Lexington, several British officers left Boston in disguise, by the direction of the commander-in-chief, to ascertain something of the temper and preparation of the people, the appearance of the country, &c. In pursuance of their object they visited Marlborough, Worcester, Concord, and various other towns. In Concord they called upon Bliss, as one friendly to the existing government. The following anecdote related to me by a venerable gentleman,\* will show that Bliss well understood the character of our people: "The officers" in conversing with him, "supposed the people would not fight. He urged a different opinion. While in this conversation, his brother, Thomas Theodore, passed by in sight; on which Mr. Bliss said, pointing to his brother, '*there goes a man who will fight you in blood up to his knees.*' The prediction was verified; that same brother proved a very brave, though unfortunate, officer, in the Revolutionary war."

A few days before the commencement of hostilities, Bliss and his family went to Boston, and thence, with the British troops to Quebec. In Canada he was appointed Commissary of the army. He was so far from making use of the facilities and opportunities this office afforded for speculation, that all he got for his honesty was, as he told a friend, *to be laughed at by the British officers.*† At the close of the war, he settled in Fredericton, New Brunswick; where he sustained the office of Chief Justice of the Inferior Court, and resided till the time of his death, in 1806. During his residence in Fredericton, he repeatedly visited his native state, and would gladly have returned to spend his days in the midst of his early associations; but the decree of

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\* The same gentleman communicated several other facts in relation to Daniel Bliss, and I should rejoice to be permitted to mention his name; but this is denied me.

† This was the case also with Col. Willard, of Lancaster, a brother to Abel Willard. He was Commissary of the English army at New York, and was ridiculed by the British officers, for accounting to the government for various items, that *looser commissaries* had been in the habit of appropriating to their own use, as *perquisites*.

government was an effectual barrier between him and his wishes. In addition to what I have stated, I would remark that Bliss is represented to me as having possessed "a very active and sprightly mind," with great *fluency and fascination* in conversation. The celebrated epitaph, on the gravestone of the negro in Concord, has been generally attributed to him as the author. It has also been attributed, though with less probability of truth, to Jonathan Sewall, the contemporary and intimate friend of Bliss.\* The reputation of the latter is sustained by his sons. The elder joined the British army at Quebec, and now resides in Ireland; the younger, John Murray Bliss, is a distinguished judge in New-Brunswick. The eldest daughter married a British officer, and lives in Ireland. A sister of his was married in this state, and died a short time ago at an advanced age.

JOSHUA UPHAM, the son of Dr. Upham, of *Brookfield*, was born in that town in 1741. He graduated at Harvard University in 1763,† in a class with several who afterwards acted important parts on the general stage. On finishing his professional studies, he was admitted to the Bar in this county, August Term, 1765. He commenced practice in his native town, and pursued his business with successful assiduity in the courts, till 1776, or the following year. He removed from Brookfield to Boston, where he resided till 1778, and thence to New York. He continued in New York during the remainder of the war. Before this, he had become much embarrassed in his pecuniary affairs by large speculations in salt works on the Cape. It was his embarrassments, principally, it is supposed, that induced him to leave the country on the peace of 1783. While in New York he was

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\* Bliss was executor on the will of this negro. The same gentleman, to whom I have alluded in a preceding note, informs me that "he once mentioned the matter to Mr. Bliss, who neither owned or denied it."

† The late Timothy Pickering was his classmate and room-mate. Their early friendship survived the bitter and hostile spirit that grew up *inter partes*, in the Revolutionary war. On the return of peace, they renewed their correspondence, which is said to have been of an *affectionate and delightful* character.

Aid-de-camp to Lord Dorchester, and, before he left the army, he attained the rank of Colonel of Dragoons in the British service.

On the organization of the government of the Province of New-Brunswick in 1784, Upham, who had been one of the first settlers there, returned to his favorite science, the law. He was appointed judge of the highest court in the Province, and sustained the important and responsible duties of his office with industry and ability.

In 1807 he was selected by his brethren on the Bench to visit England, for the purpose of obtaining from the government a more perfect organization and arrangement of the Judiciary in the British American Provinces. He fully succeeded in the object of his appointment, but did not live to return to his country. He died in London in the year 1808.\* While in London he enjoyed the friendship of Mr. Palmer, who afterwards bequeathed his valuable library to our University; of Sir John Wentworth, of Sir William Pepperell, Lord Dorchester, and Mr. Percival.†

Judge Upham held a high rank as counsellor and advocate. He had a great command of language; not a mere flow of words, but the music and harmony of arrangement and style; *the well of English undefiled*, and adorned with classical elegance. He possessed, in a remarkable degree, that rare talent, fine powers of conversation, of which *Lord Bacon* laid down the true rule, and indulged occasionally in a happy vein of satire. With brilliancy and wit,‡ he united many virtues, and a

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\* He was buried in the Church of Mary Le Bone. Judge Upham was twice married. His first wife was a daughter of Col. Murray, of Rutland; and the second, a daughter of Hon. Joshua Chandler, of New Haven.

† Mr. Percival, a few days before he was assassinated, sent to a son of Judge Upham 100*l.* sterling to assist him in his education.

‡ *Major Garden*, in his interesting volume of anecdotes of the war in the southern department, relates an anecdote of Upham, that may well be introduced here. The British troops, it will be recollected, were in red, and the American in blue, uniforms. "About the period of the final departure of the British from New

sound judgment. "The prevailing excellence of his character," to use the words of one who fondly cherishes his memory,\* "was a benignity of spirit, which seemed to affect the exercises of his intellect, as well as of his affections."

Judge Upham was pleasing in his person and address, while he was imbued with all that grace which comes before education, and which education can hardly bestow. Like Bliss, he was of that peculiar class of the old school of manners, of which probably even the youngest among us have seen some surviving specimens.

"He was complete in feature and in form,  
With all due grace to grace a gentleman."

JOHN SPRAGUE was born in *Rochester*, Plymouth County, June 21, 1740, and graduated at Harvard University in 1765. On leaving College he began the study of medicine under Dr. Williams of Roxbury, and kept the grammar school in that town. He abandoned this study in May, 1766, and entered his name in the office of James Putnam, with whom he passed his novitiate in the law; and at the same time kept a private grammar school in Worcester. He was admitted to this Bar, May Term, 1768, and in September following to the Superior Court in Rhode Island. He opened an office in Newport where he remained till May, 1769, when he removed to Keene, in New Hampshire. After practising awhile in the County of Cheshire, and obtaining an acquaintance with the people that was in subsequent years of great use to him, he removed to Lancaster, in

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York, an excellent repartee made by Major Upham, aid-de-camp to Lord Dorchester, to Miss Susan Livingston, has been much celebrated. 'In mercy, Major,' said Miss Livingston, 'use your influence with the commander-in-chief to accelerate the evacuation of the city; for among your incarcerated belles, your mischianza princesses, the *scarlet fever* must continue to rage till your departure.' 'I should studiously second your wishes,' replied the Major, 'were I not apprehensive that, freed from the prevailing malady, a worse would follow, and that they would be immediately tormented with the *blue devils*.'"

\*I am indebted to my friend, the Rev. Mr. Upham, of Salem, the son of Judge Upham, for several interesting particulars contained in this sketch.

this County, and immediately after went into partnership in his profession with Abel Willard.

He represented the town in the Legislature ten years, and the County in the Senate, in 1783 and 1785. At the February term of the Supreme Court in Suffolk, 1784, he was called up by the *first writ* that issued for barrister in this Commonwealth; the previous mode being without writ. In 1786, he was appointed by the Government *the law adviser* of Gen. Lincoln, in his expedition against Shays and his adherents, and remained with the General till the beginning of bloodshed rendered legal advice no longer necessary. In 1788, he was a member of the Convention for ratifying the Constitution of the United States. He was instructed by the town to vote against it, and at the same time, having perfect reliance on his discernment and integrity, they very wisely qualified their instructions, and left it in his discretion to vote as he might see fit. There was a torrent of opposition to the adoption of the Constitution on the part of this County; for out of *fifty* delegates, there were *forty three* who voted for the rejection of the constitution, and seven in its favor. It is hardly necessary to add that Judge Sprague voted in the affirmative. He was some years after selected as a referee to adjust the numerous disputes in Maine "between those who without title had settled on the lands of the Commonwealth, of the Waldo Patent and Plymouth Company, on the one part, and the lawful proprietors of them on the other."

The professional business of Judge Sprague was very extensive. Besides multiplied engagements in his own County, he attended the Courts in Middlesex and Hampshire, and in the Counties of Cheshire and Hillsborough, in New Hampshire, for many years.

He held the office of High Sheriff of this County from 1788 to 1792. In 1798, he was appointed Chief Justice of the Court of Common Pleas for this County, which office he held till his

death in September, 1800.\* It is worthy of remark that he was the first lawyer who sat on the bench of that Court after the Revolution.

Judge Sprague was among the most able jurists of his day. His mind was clear and comprehensive, and, though he was not an eloquent speaker, his reputation for a fair and honorable course secured attention, and the soundness and logical precision of his arguments forced home conviction. With the Jury he had more weight than many of graceful manner and easy elocution. In all that is scientific as well as in all that is technical in his profession he was well versed. In political as well as professional life, he was distinguished for sound sense, clear views, and much forecast, the result of long and intense reflection.

He was listened to by the wise and learned, because they well knew how to value his strength and research, his honesty and independence. For these qualities he secured to himself respect as a lawyer, a judge, and a citizen. So respectable were his attainments, out of his profession, that he was elected a member of the American Academy. He was a good classical scholar, but more particularly excelled in a philosophical knowledge of history. In his own neighborhood he was eminently useful in promoting peace and good order, and in giving a healthful direction to the municipal proceedings of the town.

RUFUS CHANDLER, the son of Col. John Chandler, was born in *Worcester*, May 18, 1747. He was fitted for college by the Rev. Mr. Harrington, of Lancaster, and graduated at the University in Cambridge in 1766. He commenced the study of the law with James Putnam, and was admitted to this Bar November Term, 1768. From that time till the closing of the courts in 1774, he continued in the profession at *Worcester*. Like most of the distinguished family of his name, who had had extensive

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\* Judge Sprague was twice married. His first wife was Catherine, daughter of Richard Foster, Esq., former High Sheriff of Middlesex. The second was the widow of Thomas Ivers, Esq., former Treasurer of the Commonwealth.



and almost unbounded sway in the County, ab primo origine, he adhered to the royal party, and left the country during the war. He ever afterwards resided in London as a private gentleman, till his death, October 11, 1823.

He was not distinguished for eloquence, nor for great intellectual power; but he held a respectable rank in his profession, and gained much praise in the practical parts of his business, and for his neatness, accuracy, and punctuality, as an office lawyer. His fidelity to his clients insured him their esteem, and a very considerable amount of business. Through life he observed the strictest rules of economy, the rather from a regard for such as had a right to his aid, than from any love of money for its own sake. In his personal habits he was remarkably precise. He was *the* nice man. He possessed great moral worth and purity, and a conciliating disposition. Two of his grandsons have within a few years been admitted to this Bar.

DANIEL OLIVER was, I presume, the son of Peter Oliver, of Middleborough, Chief Justice of the Superior Court of the Province, a gentleman of some celebrity in our ante-revolutionary history. The son graduated at Harvard University.\* I do not trace him in this county before 1771. He was then in practice in Hardwick, the residence of Gen. Ruggles; with whom, probably, from the sympathy of political feeling, as well as from inclination and taste, he was on terms of very friendly intercourse. He remained in this county till the courts were closed in 1774. He was of good learning in his profession, and was an accomplished man in his manners. From his family connections,

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\* There were two of the name who graduated at Cambridge; one in 1758, the other in 1762. The latter was probably the one mentioned in the text. He died at Ashted in Warwickshire, in the year 1826, aged 82. His father, the judge, was quite an antiquary, and before the Revolution, copied with his own hand, Hubbard's MS. history of New England. The son was applied to, some years ago, in behalf of the Mass. Historical Soc. for the loan of this copy, which they were desirous of publishing in their collections; the copy in their possession being imperfect. He returned a very short, crusty letter, refusing their request. This rare specimen of *civility* and *genuine courtesy* is preserved in 2 Coll. Mass. Hist. Soc. iii.

he was of course a loyalist, and was obliged to leave Hardwick, and finally to seek for safety in the Parent Country.

NATHANIEL CHANDLER, the brother of Rufus Chandler, was born in *Worcester*, Nov. 6, 1750. He received the rudiments of a liberal education, under the care of the Rev. Mr. Harrington, of Lancaster, and graduated at Harvard University in 1768. He studied law with Putnam, and was called to the Bar, December Term, 1771. He established himself in business the same year, in Petersham, and somewhat more than four years after Joshua Atherton left the place. He continued in business till the closing of the courts. He was of the royal party, and never practised law after the Revolution. At the commencement of hostilities, he joined the English, and for a time commanded a corps of volunteers in the British service, in New York. From New York he repaired to England, and returned to this country in 1784, bringing with him large mercantile stores. He left the temple of justice and engaged largely in trade in Petersham. His health failing, he was obliged to relinquish business, and removed to Worcester, where he died, March 7, 1801. He was more distinguished for talents than his brother. He was early a pupil of the elder President Adams, when he kept school in Worcester, who was wont to speak of his scholar as possessing fine abilities. If he had been assiduous in his profession, he might have risen to eminence. His personal appearance was pleasing, and his address and great flow of spirits, with a fertile imagination, rendered him a great favorite in society.

ELIJAH WILLIAMS, the last on the list before the Revolution, was a graduate of Harvard University in 1764. He was originally in practice in Deerfield. I am informed that several years before the war, he removed to Mendon, in this county, where he staid a short time in the business of his profession. He took up his residence in Keene, New Hampshire, in 1771, and there lived till the Spring of 1775. Adhering to the royal party, he left

Keene soon after the Battle of Lexington, and joined the British in Boston.\*

In glancing for a moment at the characters I have ventured to mention, it is obvious to remark, that among the limited number of jurists who adorned this Bar before the Revolution, there was a large proportion of talent, learning, and gentle bearing. Putnam, Willard, Bliss, Upham, and Oliver were I believe the only barristers. They, with the others, formed a small body, it is true, but they were united by the ties, not only of a common pursuit, but almost of a common feeling on the all-engrossing, all-absorbing political question of the day. Putnam, Willard, Bliss, Upham, Sprague, the two Chandlers, and Oliver, were closely allied either by blood, marriage, or friendship, with the aristocracy of the County and Province. And Gen. Ruggles was with them, that master spirit who possessed an influence that we may suppose almost amounted to control. It is not strange, therefore, that they all, with the exception of Sprague, took strong ground for Government. They were already leading men in the community, and what had they to gain by a change? They had large possessions, and however much they might love their country, they well knew that unsuccessful resistance would blast their prospects, ruin their estates, and grind them to powder.

I have often thought that in our abundant patriotism, and it is a quality I would cherish as life itself, we have been too lavish in our denunciations of these men. Could we but place ourselves in their position, and feel their doubts and fears, and know the love that most of them certainly must have felt for their country, for all that they valued in life was here, we should be less severe with their memory, and at the same time cherish

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\* Collections of the New Hampshire Hist. Soc., vol. II., pp. 109, 112. Mr. Bliss, in his address to the Bar, mentions Williams as being of Deerfield in 1774. This is incorrect. He then lived in Keene; and in May of that year was appointed, by Gov. Wentworth, a justice of the Peace for the County of Cheshire. *Ib.* 109.

increased admiration for those who looked into futurity with almost a prophetic glance, distinguished the end from the beginning, and saw through a murky atmosphere the dim and distant light that none other could see.

Soon after the closing of the courts, Upham and Sprague were the only lawyers left in the County, to represent their profession, and mourn over the long vacation of sixteen months that followed. From his intimacy with the leading loyalists Judge Sprague had imbibed no small portion of their views. His inclinations were doubtless that way. Under an impression that he should be called before the *Sifting Committee*, in Lancaster, he went to Boston, without, perhaps, intending permanently to leave home, or, it may be, purposing to guide himself by circumstances. A friend and townsman of his,\* seeing the critical situation in which he was placing himself, met him in Boston and urged the importance, the absolute necessity, of an immediate return; that otherwise he must doubtless fall under censure, and become a subject of proscription and confiscation. This advice was timely given and timely received; for hostilities soon after commenced, when a return would have been impracticable, and he would have been denounced as an enemy to his country. He returned to Lancaster, and was not molested during the contest.

Before coming down to a later period, I would pause to pay a tribute of respect to the Bar of the Province before the Revolution. I do not know that it is fashionable to speak lightly of its members, but they are not esteemed by all so highly as they ought to be. Those lions had no painters. They lived before the age of *Reports* in this country, and that was living too early for their fame. Tradition cannot do them justice, nor will imagination lend its aid to raise them to their proper rank. We know them, therefore, but in part. But from the relics that have come down to us, and from all that can be gathered in rela-

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\* The late Samuel Ward, Esq.

tion to them, an opinion favorable to their professional merit acquires new strength. Consider the clear and concise forms of declarations, and of special pleadings, in which all the English redundancy is, with singular boldness, at once cut off,\* and for which we constantly stand their debtors—the arguments against the writs of assistance, the extensive learning manifested on the trial of the soldiers, in 1770—the various manuscript opinions of Richard Dana, Edmund Trowbridge, and others—the times in which they lived, when they were called upon beyond the walks of the common law in private relations, to explore the doctrine of king and subject—the whole science of natural and public law, that entered largely into the great political question that was heaving the country to its very centre. These and other considerations go to establish their claim to high consideration. Nor does it argue against this opinion, that their libraries were scantily furnished, compared with our own. A lawyer is not made by a multiplicity of books. This very scantiness led them to study what they had, more intensely;—it sent them back to the elements, and compelled them to reason—to elaborate—to run their analogies and pursue them, guided by what lights their own minds afforded,—and in some instances, doubtless, more than supplying the place of authorities. It compelled them to form the habit of relying upon their own resources, and of increasing them by the very process. They could not overload and smother their cases under a weight of authorities, and make up in number what was wanting in appositeness. I do not design to institute a comparison between the lawyers of that period and of the present day, for I think it would be injustice to both. I merely wish, in what I have said, to express and fortify an opinion that I have long entertained, touching the

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\* The late Chief Justice Dana, the son of Richard, once remarked, that “his father was so very concise in his legal instruments and special pleadings, that the lawyers were generally put upon the lookout for some *essential* omissions, but were as often disappointed.”

reputation of our early predecessors in the science of jurisprudence; for they are in some respects our masters.

At this time there was form and ceremony on the Bench and at the Bar. A school of manners prevailed that is now obsolete. The judges of the Superior Court, in scarlet robes, with wigs and bags, and the barristers in their robes of black silk, with wigs and bags, must have presented an imposing appearance. When the judges approached the town, the sheriff, with the principal citizens of the place and vicinity, met them at the boundary, and formed an escort.

We have now come to a new era in the history of the Bar, and of the courts. The courts were closed at the end of June Term, 1774, and the old order of things passed away forever. A long period of hope and fear, of anxiety, of awful preparation for an approaching struggle with a powerful empire, ensued, that required the energies of the stoutest and bravest, of hearts of steel, and sinews of iron. The temples of justice were closed, professional business was at an end, and nothing but the strong moral complexion of our people preserved us from anarchy and ruin.

In December of the following year, the doors were again thrown open, the judges took their seats upon the bench, and the voice of the profession was again heard. But they were other judges, and it was almost another Bar. The change was striking. On one page in the records, we see the ancient order of names and cases, and on the very next a new system of things rises to view; and then follow the extensive confiscations of the estates of those, whom a few lines back, we found distinguished in the forum, and filling a large space in the community.

From the beginning of the war, till the peace of 1783, there were nine new attorneys in practice here, eight of whom were admitted to this Bar. Their names are—

LEVI LINCOLN, who was admitted in Hampshire.

WILLIAM STEARNS,	admitted	December	Term,	1776.
NATHAN TYLER,	“	March	“	1777.
DANIEL BIGELOW,	“	June	“	1780.
DWIGHT FOSTER,	“	“	“	“
WILLIAM CALDWELL,	“	December	“	1781.
WILLIAM SEVER,	“	September	“	1783.
PETER CLARK,	“	“	“	“

And one other, the only survivor of them, who was admitted September Term, 1780, and is still with us, reaping the fruits of industry, and, in the midst of his present usefulness, and vivid recollections of the past days of our profession.\*

It only remains for me, so far as relates to our own Bar, to dwell for a few moments on the names of those, or some of those members of the profession, who appeared on this spot after the commencement of the Revolution, and at a subsequent period, and have fallen asleep, leaving us the remembrance of their worth and the excellence of their example. I am perfectly aware that I am treading on dangerous ground, in venturing to speak of those with whom I never had a personal acquaintance, and in the presence, too, of gentlemen at one time and another their acquaintance and familiars, and able to do ample justice to a subject, where I must, of necessity, be imperfect in any attempt at delineation, and must confine myself to a few individuals. Still I hesitate not in reposing full confidence in the candor of my brethen, that I have already experienced, while I claim only to put in order and form the facts and oral communications that I have assiduously gathered.

LEVI LINCOLN, the late Lieutenant-Governor of the Commonwealth, is the earliest on the list. He appeared here on the opening of the courts in December, 1775. He was born in Hingham, May 15, 1749, and graduated at Harvard University

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\* Hon. Nathaniel Paine, Judge of Probate, &c., admitted September Term, 1780. To him I owe many obligations for his numerous oral communications in answer to my inquiries.

in 1772. He soon after commenced the study of the law in the office of the late Mr. Farnham, in Newburyport; with whom he staid awhile, till he had exhausted the scanty library of his instructor, and then completed his novitiate in the office of Major Hawley, of Northampton, where he found greater facilities and a more distinguished teacher.

He was admitted to the practice in regular course, in Hampshire, and directly after established himself in his profession in the town of Worcester. At this time Judge Sprague and Judge Upham were the only lawyers at the Bar in this county; and the former alone stood on safe ground touching the great question of national right then pending. Most of the leading men in the county had abandoned their homes and their country. The same cause that had brought them forward, and sustained them for years, had kept in the back-ground those of the popular party. Hence there was a wide opening for talents and the ambition to be useful. The popular party was indeed strong here, but it was rather the strength of numbers than of education. They needed leading men—men of forecast, prudence, energy, and popular address, to direct the willing hearts. And such they soon found.

The talents and strength of purpose possessed by Mr. Lincoln, soon gave him a powerful hold upon the public mind. He was a most active and energetic member of the committee of public safety; and at the first term of the court he was appointed Clerk, afterwards was selected as the first Judge of Probate for the County; and in 1779 was specially designated to prosecute the claims of the Commonwealth to the numerous and large estates of the loyalists, under the *Absentee Act*. He was thus, at an early stage in his professional career, brought frequently into public view, and became prepared for a more extended sphere of action in the political world. He was a member of the convention that formed the State Constitution. He was



also a member of Congress under the old confederation, when, it will be recollected, the choice was made by the Legislature.

In 1797 he was a member of the Senate of this Commonwealth, and was afterwards chosen to represent this county in the seventh Congress. On the second day after taking his seat, he was appointed, by Mr. Jefferson, Attorney-General of the United States, and while he held this office was for some time provisional Secretary of State. He resigned the charge of Attorney-General in 1805, having performed its duties four years, and soon after returned to the scene of his former labors. In the spring of 1806 he was chosen to the Executive Council, and the following year to the office of Lieutenant-Governor of the Commonwealth. On the death of Governor Sullivan, in December of that year, he discharged the duties of Chief Magistrate for the remainder of his term of office. In 1810 and 1811, he was again a member of the Council. When his term of office expired he retired altogether from public life. He was appointed in 1811, after the death of Judge Cushing, an associate justice of the Supreme Court of the United States. But increasing years induced him to decline the honor, and seek the quiet and retirement of private life. He died, April 14, 1820, aged 71.

No member of this Bar has ever been called into public life so frequently, or in so many relations, as the late Gov. Lincoln. For a period of nearly forty years, he was in active life, amid vast and important changes in our community, such as none of the present generation can be called upon to witness. Coming into life when the flame of liberty was flickering and inconstant, when a few feeble colonies were struggling for existence, he was an actor in the various mutations of the Revolution, in the feeble days of a confederation that was rapidly reducing us to a condition worse than foreign dependence, and in the vigorous and healthful action of the new constitution, till our national

polity was settled on a firm, and, it is to be hoped, an imperishable basis.

But it is with professional character that we are chiefly concerned. He was, without question, at the head of this Bar from the close of the Revolution till he left our courts at the commencement of the present century. His professional business was far exceeding that of any other member of the Bar. He was retained in every case of importance, and for many years constantly attended the courts in Middlesex and Hampshire. His great command of language, his power in searching out the truth from unwilling witnesses, in analyzing, arranging, and presenting to the mind the evidence of the case, rendered him a highly popular advocate, and gave him great success in jury trials. Wide reading and extensive practice constituted him a learned jurist. He was in the habit of making very full briefs;—a practice commended by some, and censured by others; but the expediency of which must after all depend chiefly upon the peculiar construction of the mind itself.

In his arguments he was long and minute, nor suffered anything to escape that might by any possibility be turned to account. His turn of mind was metaphysical; this led him sometimes, like Burke, to refine too much, till the force of the point was somewhat injured by the subtlety of the speculation. But this was not common. So great was the pleasure he derived from metaphysics, that he made it a particular study; not that he indulged in the systems of others; but he made his own system, by a careful observation of the operations of his own mind, and its affections. And in conversation he would indulge in his favorite subject, and task the powers of those who heard him in following out his nicely elaborated reasonings. He was a member of the American Academy of Arts and Sciences,—a society that has enrolled many distinguished men in its ranks.

Late in life he resumed the study of the classics; returning to

them as to a pleasant retreat after the heat, bustle, and excitement of a long professional and political career. I can conceive that to the man of education, in his declining years, it must afford peculiar gratification to review youthful studies. They carry him at once beyond the busy and oftentimes sickening scenes of riper years, to the freshness of early life, when emotion, passion, and hope were new, and ere experience had begun her teachings. They at once connect him with the freshness of his existence, and the happy thoughts, feelings and impressions, that are the fragrance, the *purple light* of youth. His favorite Latin author was Cicero, whose *Offices* and *Treatise on Old Age* he was ever fond of perusing.

It is not my purpose to give a minute account of every departed member of our Bar, whose memory and worth deserve to be cherished by a liberal profession. I have time and opportunity only for a few brief sketches in addition to those I have already made.

WILLIAM STEARNS is next in order of time. Mr. Stearns was a native of Lunenburg, in this county, graduated at Harvard University in 1770, and began the study of divinity. On finishing his studies, he preached for a short time, but was never settled. He soon after commenced the study of law, and was admitted an attorney in this county, December Term, 1776. Previously to this, he commenced the publication of a newspaper, that lasted not more than a year. Establishing himself in Worcester, he appears from that time to have been considerably engaged in professional labors, till his early death, in 1784. He was not long enough at the Bar to acquire a high reputation, but he was esteemed as a man of good sense, and of very respectable learning in his profession. And he had other qualities that endeared him to the community around him. He was gifted with that wit which pleases and gratifies, without leaving the sting of a wound; and with that kindness of feeling, and

amenity of manners that made him one of the most popular men in his neighborhood.

After March, 1777, there was no gentleman admitted to the practice in this county for more than three years. The courts offered but small inducements, at this most gloomy and agitating period of public affairs. Nearly contemporary with Mr. Stearns and Governor Lincoln, was—

DANIEL BIGELOW. Mr. Bigelow was born in Worcester, April 27, 1752, and graduated at Harvard University in 1775. On leaving college, he returned to Worcester, where he kept a school till the following spring, and then joined Mr. Stearns in the publication of the newspaper I have mentioned. When the publication of this print ceased, he commenced the study of law with Mr. Stearns, and was admitted to this Bar, June Term, 1780. Soon afterwards he opened an office in Petersham, and continued there till his death, November 5, 1806. He represented that town in the General Court from 1791 to 1794, and was then a Senator for the county for the four succeeding years. In 1801 he was a member of the executive council.

Mr. Bigelow shared largely in the esteem of his constituents for his sound sense and for his integrity. Though not a facile speaker, he was well grounded in his profession, and was respected as a prudent and safe counsellor. And more than all, he had that moral health, that fair and honorable mind that shed a bright lustre upon the character.

DWIGHT FOSTER, who was contemporary with several gentlemen whom I have named, was son of the Hon. Jedediah Foster, who, though not educated to the profession, was a prominent man in the judicial and civil history of our Commonwealth. The son was born in Brookfield, Dec. 7, 1757. He graduated at Brown University in 1774, in the seventeenth year of his age. He was a lawyer for a time in Providence; and on the death of his father in 1779, he returned to Brookfield. At the early age

of twenty-one, he represented his native town in the Legislature. He was admitted a member of this Bar, June Term, 1780. He commenced professional business immediately after, in his native town.

At that time there was no lawyer in the neighborhood, and Judge Foster forthwith commanded a very extensive practice. From his habits of industry and method, and *rising before it was light*, he acquired great facility, accuracy, and promptness in the management of his business, and no lawyer of his day exceeded him in these qualities. Though of delicate and uncertain health, he was thus able to accomplish much. As a conveyancer he was esteemed remarkably exact and neat. As a counsellor he was very extensively consulted, and much respect was paid to his opinion.

His reputation early extended; he became a great favorite with his fellow-citizens, and was almost continually called upon to fill responsible public trusts. He was a member of the convention to form the State Constitution, the successor of Judge Sprague in the office of High Sheriff of the County, Chief Justice of the Court of Common Pleas for ten years, an Elector of President and Vice-President when Washington was a second time chosen chief magistrate of the Union, a member of the executive council, and from 1793 to 1801, a Representative, and the two succeeding years Senator, in Congress.

He sustained the intimate relations of private life with integrity, frankness, and with a mild and conciliating deportment; and after passing a long life of favor and usefulness, he died April 29, 1823, at the age of sixty-six.

EDWARD BANGS was the son of Benjamin Bangs,\* of Harwich, Barnstable County. He was born in that town September 5,

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\* He was descended from Edward Bangs, one of the early settlers of Plymouth, who emigrated from Chichester, England, and arrived in July, 1623, in the ship *Anne*, which was the *third* arrival at Plymouth.

1756. He was fitted for college at Dummer Academy, Newbury, by Master Moody, the distinguished instructor of many distinguished pupils, and graduated at Harvard University in 1777. Mr. Bangs early espoused the cause of his country. He was at Cambridge during the vacation, in April 1775, when the news of the landing of the British on their way to Concord was announced. During that eventful day, he joined the American party, who were in uncertain array, and repaired to the scene of action, where he fought bravely during the day. He was instrumental in saving the life of a wounded English soldier, who had been seized by the Americans, and was about to be put to death.

On leaving college, Mr. Bangs began the study of the law in the office of Chief Justice Parsons, in Newburyport. The late Rufus King was a student at the same time, in the same office; and with him Mr. Bangs was afterwards in habits of epistolary correspondence for several years. He was admitted to the Bar in 1780, and established himself in business with Mr. Stearns. This connection was not of long continuance. He was afterwards in partnership with one who is still a member of this Bar;\* and this connection continued until he was appointed a judge. He represented the town of Worcester, in the General Court, from 1801 to 1811, inclusive. He was appointed, by the Executive, County Attorney, Oct. 21, 1807.† He continued in this office till his removal to the Bench as an associate Justice of the Circuit Court of Common Pleas for the Western Circuit, Oct. 8, 1811, on the first organization of that court. This office he held till his death, June 28, 1818, in the sixty-second year of his age.

In connection with his character for public spirit and patriotism, it should be mentioned that in the insurrection, in 1786, he joined the forces of Gen. Lincoln as a volunteer. His exposure

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\* William E. Green, Esq. † On the resignation of Hon. Nathaniel Paine. The previous mode of appointing County Attorneys was by the court.

during that brief campaign, and the hardships he was compelled to endure, possessing, as he did, rather a frail constitution, laid the foundation of disorders that afflicted him much during life.

Judge Bangs had the character of a sound lawyer. He practised in the courts thirty years, with good reputation and success. His manner at the Bar did not, however, do full justice to his talents. In his arguments on questions of law, I am told, he conceived the matter well, and was methodical in his arrangement, and made strong points, but was not sufficiently lucid in their enunciation. He was a good classical and general scholar—a particular, perhaps, in which some of us fail,—and he had also a taste for the mathematics, which he pursued to some extent.

As a citizen and friend, he was esteemed for his devotion to the cause he espoused, and to the persons with whom he allied himself; and his temperament gave warmth and strength to his feelings. In public and private he was respected for his sincerity and honesty; qualities that are not always allowed to an individual in times of general zeal and excitement. He was enthusiastic in his love of nature, and would dwell largely, and with intense interest, upon her beauties. He possessed a taste for poetry, though he did not cultivate his talent that way to any considerable degree. There are however pieces of his, written for public occasions, and some of a comic vein, that were circulated extensively in the journals of the day.\*

SAMUEL DEXTER, of Harvard University, 1781, was a student in the office of the late Gov. Lincoln. He was admitted to this Bar, September Term, 1784, and practised law, sometime, in Lunenburg, in this county. He did not reside here long. He removed to other places, and to wider spheres of action. It is not my purpose, therefore, to attempt his biography. His name and his

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\* Judge Bangs was exceedingly attached to *horticulture*; an employment that affords simple but pure pleasure to its votary, and ought to be a source of more general interest and enjoyment amongst us.

fame rest imperishable, I trust, in the records of our profession, where he shone without a superior, and will survive in the history of this State and of our common country, as one of our most distinguished statesmen. His death was the extinction of the brightest ornament of our profession in the commonwealth.\*

PELEG SPRAGUE was admitted to our Bar at the same time with Mr. Dexter. He was a native of Rochester, the same town that gave birth to General Ruggles, and Judge Sprague, and has since produced *strong* men of the Sprague family. He possessed a mind that rose superior to factitious circumstances.

Early in life he left Rochester and took up his residence in Littleton. The breaking out of the Revolution destroyed his prospects of active business in that place, and he removed to Lancaster, and resided for some time with his uncle, Judge Sprague, with whom he entered upon his classical studies. In the latter place he engaged in business, and succeeded in procuring the means of purchasing a tract of wild land in Acworth, New Hampshire. This he soon subdued by his own personal industry, and, soon after, having an opportunity of selling to advantage, he removed to Charlestown in that State, where he commenced the study of law with the late Benjamin West, then and for many subsequent years, a distinguished jurist and advocate. He practised several years in Winchendon and Fitchburg. In 1787 he removed to Keene, New Hampshire, where he was admitted to the Superior Court, and continued in practice till his death, in the year 1800. He represented Keene in the Legislature of the State, and the County of Cheshire in the Congress of the United States. He was a man of great energy of character and expression, a thorough lawyer, and a sound reasoner.

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\* And for a time it seemed that the loss would be irreparable in the capital of the State. But soon the place was supplied by one from a neighboring State, who now is first in our profession, and in public life. *Alter idem.*



PLINY MERRICK was born in Wilbraham, where his father was a clergyman, Sept. 14, 1756. He graduated at Harvard University in 1776, and studied divinity with a clergyman in Springfield. He preached occasionally for four years. But his health was so feeble that he uniformly declined being a candidate for settlement. He then went to Virginia for the purpose of improving his health in a warmer climate. He became an instructor in a private family, at the same time pursuing the study of the law. But not finding his constitution essentially benefited, he returned, two years afterwards, to his native State, and commenced as a student in the office of Oakes Angier, of Bridgewater, where he continued a year, and was admitted to the Bar in Plymouth County in 1787. He began business in his native town, and in the spring of 1788, removed to Brookfield. He continued in Brookfield till his death, which occurred March 2, 1814.

Mr. Merrick was a Senator from this county in the year 1808. His talents, elicited in an action for forcible entry and detainer, first brought him into notice at the Bar, and he was considerably employed as an advocate. He was a gentleman of fine feelings, and of much energy and fluency of expression. His mental powers were of a very respectable order, and he had cultivated them with some assiduity in his profession. Mr. Upham, of whom I shall next give a brief sketch, was, in the early part of his career, in the habit of consulting Mr. Merrick, and relied much upon the correctness of his opinions as a lawyer.

JABEZ UPHAM, the son of Phineas Upham, was born in Brookfield. By his own exertions, principally, he obtained the means of defraying his expenses at college. He was a graduate of Harvard University in the class of 1785.\* He pursued his legal studies with Judge Foster in Brookfield, and was admitted

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\* Mr. Upham however, did not obtain his first degree till the following year; for being offended with the Faculty, for the part assigned him at commencement, he left college and did not afterwards return.

to the Bar, in this county, September Term, 1788. He practised a short time in Sturbridge, a few years in Claremont, New Hampshire, and thence removed to Brookfield, which was the principal scene of his professional labors and honors. He represented that town in the State Legislature, and was twice chosen, in Worcester South District, Representative to Congress.\* In September, 1809, he resigned his seat in Congress. He died November 8, 1811, at the age of forty-seven.

On his first coming to the Bar, the late Gov. Lincoln and Judge Sprague were the leading members of the profession in this county; and with them as well as with others, he was early brought into collision. He was not an easy speaker, but having a spirit of great perseverance and tenacity, he would never quit a point or a cause, till he had elaborated it to his own satisfaction. He soon became a prominent member of the Bar, and for a period exceeding twenty years was much employed in important questions to the court and jury. In the examination of witnesses he was severe, critical, minute, and with difficulty could one escape him without revealing the whole truth. In his briefs he was full, and arranged with care, discovering much research and a thorough knowledge of legal principles; and if stopped on one point, he was quite apt to return to it again, and to discuss it in one way and another, rather incidentally than in chief, till he had presented, though it might be to unwilling ears, the whole of his investigation. He prepared his causes, more particularly his legal arguments, with uncommon assiduity, method, and ability.

The last one I shall mention, and one whose name has shed a bright lustre upon our Bar, is the late Mr. Blake.

FRANCIS BLAKE, the son of Joseph Blake, was born in Rutland, in October, 1774. In the year 1779, his father removed to Hingham, and soon after placed his son under the care of the late

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\* 1807, 1809.

Rev. Joseph Thaxter, who then kept the grammar school in that town; the same venerable gentleman who was afterwards a clergyman at Martha's Vineyard, and made the fervent prayer at the celebration of the battle of Bunker Hill, in June, 1825. Under him and others, Mr. Blake was early fitted for college, and graduated at the University in Cambridge in 1789, at the very early age of fifteen. It is undoubtedly true, as a general rule, that the precocity of intellectual power is its own destroyer, and, in after life, the fond hopes of parents and friends are miserably crushed. But it was not so with the fine genius of Mr. Blake.

After leaving the University he pursued the study of the law, principally with Judge Sprague, in Lancaster, and was admitted to this Bar in 1794, *at the early age of twenty*.

He commenced practice the same year in Rutland, where he was soon engaged in pretty extensive business. After remaining there some years, he removed to Worcester, where he continued in the profession till the year preceding his death. During the last year of his life he was clerk of the courts. He represented the county in the senate of the commonwealth, and was highly distinguished for his ability and zeal. But it was in professional life that he shone conspicuous. *This spot* was the scene of his distinction. Within these walls was the exhibition of his power; and as time has flown on, and swept with its unsparing hand the material form, it has left the glory of his eloquence deeply traced on the memory of many who are present; and the spirit that stirred within him still hovers around us.

Mr. Blake possessed all the constituent properties of a great orator. He was of an ardent temperament, the usual companion of fine intellect, and of a character that dwelt with satisfaction and delight upon whatever was lofty and honorable. His was the nicely modulated voice, all whose cadences were musical; and though like the harp of Memnon, in unrestrained inspiration,

they sometimes breathed wildly, they breathed eloquently. His was the classical elegance of language, poured out in rich profusion from a never failing source. His was the vivid imagination, that threw over all the crimson flush of light, and dazzled by its brilliancy. He brought to his aid the advantage of wide reading, and commendable scholarship, that served to increase his power of expression. He was often vehement and impassioned, and that probably was the prevailing tone of his eloquence, especially when he detected and brought to light the hidden things of chicanery and deceit; but his vehemence and his warmth never caused him to forget himself, nor to lose that harmony and measure of expression that were peculiarly his own.

To many the properties I have described may seem incompatible with excellence in the arid principles of the law, where imagination is at fault, and eloquence yields no portion of her power; and they may think that the love of intellectual variety renders one unfit for the self-denying pursuit of legal investigations. Not so, however, in truth; for nothing is more common than the possession, not of various, but of seemingly opposite, qualities, in the same individual.

Mr. Blake had not the reputation of being a severe student, as if all that he accomplished were thrown off by the mere force of genius, without painstaking effort. Whatever may be the gifts of nature, they are of but little worth unless industry, cultivation, and intense reflection come to their aid. The measure of preparation is not nicely ascertained by the performance. The listening multitude are pleased with the eloquence and learning displayed by the jurist; but they little know the days and nights of toil, the vigilant application, which that one effort required.

It is a wrong impression that Mr. Blake made but slight preparation in his causes. But few could have discovered more investigation, or have given more satisfactory proofs of diligent and thorough study in the management of his causes. Having

had an opportunity of examining in this particular, it is manifest to me that he did not go with empty hands into the courts of justice. Even in his *nisi prius* dockets, where we should scarcely look for it, the previous labor of investigation is apparent. His briefs were remarkably full; his divisions and subdivisions were numerous, and all arranged with great regard to method. It was the *lucidus ordo*, which at once shows that the true philosophy of analysis has been at work, and that mental effort has been tasked in a degree to which few in full and successful practice are willing or able to submit. This gave him a readiness, a facility, which all admired and but few could follow.

In a word, I cannot more appropriately close this slight sketch than with the expression of one who knew him well and intimately, and was long versed with him in the forum, who has declared to me earnestly and repeatedly, that Mr. Blake was the most eloquent man he ever heard at this Bar.\*

I have finished all that I intended to say, in this connection, of the members of our profession. I have not satisfied myself, and I cannot have satisfied you. My want of personal acquaintance with every one whom I have attempted to describe, must be my apology for an imperfect delineation. For the rest, I will not weary you with a dry list of the names of all the other members of the profession living and deceased. Of those who have gone from us within a few years, and over whose graves the grass has scarcely sprung up, it is needless for me to speak.

Our list, of late years large, has increased, and bids fair to increase. There are at this time eighty members in practice, but I cannot add full practice. The whole number of lawyers in business here, from the incorporation of the county, exceeds *two hundred*. Of these but few were here before the Revolution,†

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\* Governor Lincoln.

† Since the sketches of the Ante-Revolutionary lawyers have been in press, I have become satisfied, in one particular, where I was before in doubt, and must, therefore, add one to the list. I find that DANIEL MURRAY, a graduate of Harvard University

a period of forty-four years. It is principally within the present century that the long and formidable list of names appears.

Our Bar, perhaps, has furnished a good proportion of gentlemen who have shared in the public confidence, and held offices of trust and importance. Of those who were here before the Revolution, and not afterwards, there were, amongst other civil officers—

Two Speakers of the House of Representatives.

One Attorney-General of the Province of Massachusetts.

One Attorney-General of the State of New Hampshire.

Two Councillors.

One Delegate to the Congress of 1765.

Two Judges of the highest Court, and one of the inferior Court in New-Brunswick.

Three Judges of the Court of Common Pleas in the Province of Massachusetts.

One or more members of the Executive Council in New-Brunswick.

Since the Revolution there have been—

Two Governors, one of this State, and one of Maine.

Two Lieutenant-Governors.

One Attorney-General of the United States.

One who was appointed Judge of the Supreme Court of the United States, who declined the office.

Two Judges of the Supreme Court,—one of this State, and one of Maine.

One member of Congress under the old confederation.

One member of the United States Senate.

Two Secretaries of the United States, *pro tem*.

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in 1771, attended the Court here in June, 1774, which seems to have been the only time. He could have been admitted but a little while previous. He had an office in Rutland, then the residence of his father, Col. Murray. Mr. Murray afterwards became an officer in the British service, and rose to the rank of Major of Dragoons. He is now a half-pay officer. His residence has been chiefly, and is at present, in the United States.

One Secretary of the Treasury, and one Secretary of War, of the United States.

Fifteen members of the House of Representatives of the United States.

One member of the Convention to form the State Constitution.

One member of the Convention that adopted the Constitution of the United States.

One Speaker of the Massachusetts House of Representatives.

Twenty-one members of the Senate of the State.

Four Councillors.

Four Judges of the Court of Common Pleas for this State, and one in the City of Albany.

Two Judges of the Court of Sessions.

Two Judges of Probate.

Four High Sheriffs.

Five Clerks of the Courts.

One Secretary of State, for this Commonwealth.

Seven Members of the Convention to amend the Constitution of the State.\*

In entering into the profession which should reciprocally honor and be honored, there are many duties to be performed, many dangers to be encountered, and many difficulties to be overcome, that require determined minds, and stout hearts. The student, with warming zeal and high expectations, starts upon the course, that seems at first, in the beautiful language of Sterne, "a smooth velvet path, which fancy has scattered over with rosebuds of delight." In the ardor of young exertion, and without the experience that comes slowly, but comes surely, all difficulties vanish from the view. The profession of his

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\* The preceding list is accurate as far as it goes. There may possibly be a few names that should be added to one or another part of the list. There are various other offices that might be designated; but the foregoing would seem to be sufficient.

choice seems a field where all may labor for glory, nor labor in vain, excepting by reason of their own sluggishness or timidity. And particularly, with feelings like these has many a student entered upon the science of jurisprudence.

He finds himself at once in a spacious field, without any distinct outlines, with no land-marks to guide his course, and the unthreaded paths of which, like those of the labyrinth of Daedalus, are ever crossing one another. The objects that attract his attention are numerous and multiform. They confuse him by their number, and startle by their magnitude, and, at the same time, make a choice of no small difficulty. As he advances and becomes acquainted with new objects, the horizon of his prospects recedes and widens. The new and the old, in unexpected forms, and relations, meet his eye; and all must be grappled with and overcome. He is surrounded by a host of competitors, all pressing onward with the same purpose, and each struggling to outstrip his neighbor, heedless of all but his own success. But the fever of excitement gradually cools. There are some who faint in the contest, or struggle forward with diminished effort, when the incentive to exertion should operate with the greatest force. Ere long his own steps become unequal; the course seems more arduous; he is thrust aside by those of stouter hearts with rude hands. None cheer him in his attempts, none smile upon his progress; for all are aiming at the exaltation of self.

The terrors of *black-letter* are indeed dispelled, and the ancient mysteries have walked forth from their repulsive dwellings, and fairer forms fill the scene; fairer, but no less difficult to encounter; for still to him all around seems barren and dull. He finds the study without interest. What in it is technical seems to him narrow; its *Latin* and *Norman French*, "The terms of the art," are ever sinning against his taste. The example of others who entered with him upon the career, and are already in advance,



no longer stimulates him to exertion, but rather clouds his spirits, and checks his pursuit.

But if a persevering spirit still carries him on, while he strives to look to the end, temptations to luxurious indolence beset him. His mind, weary with stretching forward, and looking to the future and the past, seeks refuge and repose, in that miscellaneous literature of this and of former periods, that affords so much to fill the imagination and gratify the taste, without exciting in any good degree the intellectual principle. The love of ease gains strength by indulgence, and the difficulty of exertion increases in equal proportion. The manly intellect no longer dwells in its fitting exercise, and he yields himself up, a half satisfied victim to the sweet influences that rapidly bind themselves around him.

Is it not true that many thus pass through life in unhappy mediocrity and inglorious ease, when the deep and stirring spirit of perseverance alone was wanting to insure excellence, if not eminence. It is not thus that distinction is to be gained. In every profession an active warfare must be waged, before victory can be won, and its fruits be gathered and enjoyed;—but in our profession, it is of the first importance.

It is thought by some that the study of the law is attended with less difficulty and labor than in former times; and one would be inclined to believe it true, when recollecting the short preparation of only a few months that is deemed necessary in some of our states. But, alas, every opinion of the kind is delusive. The truth is, the law has been changed in many respects, and rendered more worthy of the name and rank of a science. Much has passed into almost entire oblivion. But the part sloughed off bears no proportion to the increments. In some respects it has been simplified by new and more philosophical arrangements, but far less than it has gained in extension. For with population, industry, and wealth, new expositions are

required of the Courts, and new enactments of the Legislature.

It is a curious fact that in England, so late as the reign of Henry VII., "the judges would often rise from the Bench without hearing a motion, or trying a cause; Sir Thomas More read all the bills, which were exhibited in the Court of Chancery; and, in the 10th Elizabeth (A. D. 1568), there was but one Serjeant, Benloe, at the Common Pleas, for *a whole term together.*" "And," adds an old writer, "I do not read that he had any business there."\*

In former times, we are told, that the mastery of the science required the painful lucubrations of *twenty years*; that *labor improbus*, that would not rest satisfied with doubtful exertion. And at that time what was the learning required, apart from the scholastic attainments of the age? Did it summon heaven and earth, and gather its treasures on all sides? Was there an extensive, learned, and scientific community of which the serjeants and apprentices must constitute an integral and important part? Not so. The necessary learning was contained in a narrow compass. It was locked up indeed in a jargon of Norman French, and a something that was termed Latin; but far removed from classical elegance and beauty. It was shrouded in a mysterious character, and was full of abbreviated words; but it was all embraced in a few books; and when once the terrors of the outer wall and of the dreary threshold were passed, the difficulties vanished apace, and the castle was won. The principles were few, and the illustrations succinct; and new cases, as they came up, required less of laborious search for authorities than of diligent exercise of the reasoning faculty, and of the spirit of analogy.

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\* This may perhaps furnish the reason why the special office of *Reporter* which extended through the seven volumes of the *Year Books*, was discontinued in the reign of the second Tudor. It was never afterwards revived, except for a short period, through the influence of Lord Bacon. Since the *Year Books* no Reports have been published by license, either by the House of Lords or by any Court in Westminster Hall, except state trials.

But still, says Lord Coke in his preface to his *Entries*, “ars longa, vita brevis, occasio præceps, experimentum periculosum. A learned man in the laws of this realm is long a making; the student thereof having sedentariam vitam, is not commonly long lived, the study abstruse and difficult, the occasion sudden, the practice dangerous.” The student is advised\* to spend about two or three years in the diligent reading of Littleton, Coke’s Commentary, Perkins,† Doctor and Student, Fitzherbert’s *Natura Brevium*, and, possibly, Coke’s Reports. Then he may read the Year Books, Plowden, Dyer, Coke’s Reports a second time, accompanied with constant examination of the Books of Entries; and Lord Coke particularly recommends *the old books of Years*; “for,” says he, “undoubtedly out of the old fields, must spring and grow the new corn.”

This *enticing* mass includes nearly all of the printed law of that period. The range of early jurisprudence was comparatively limited. Maritime, Commercial, and International Law were then in their infancy. In personal actions, trespass, and debt were the usual forms; and these, with real actions and questions relating to the economy of the church, constitute the principal portion of the early volumes.

In process of time, *black-letter*, like every other barbarism, gave way to the spirit of change that began to spread, and the publication of Blackstone was considered the commencement of a new era in the study of the law. And it was a new era. He appeared like a newly discovered classic, dug out of the chaotic mass that the lava of ages had covered and buried. He was hailed almost as another *legum Anglicanarum Restitutor*. He filled up the excellent outline of Sir Matthew Hale, brought order out of confusion by a lucid arrangement, shed light on what was before dimly discerned, and, to many, was shrouded in

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\* Preface to Rolle’s Abridgment. † “Profitable book on the learning of conveyancing.”

impenetrable gloom. He stamped more legibly the character of a system upon the science of the law. Many have entered the temple, reached the shrine, and placed their gifts upon the altar, who, but for him, would have trembled and halted at the vestibule. His was the key to unlock those treasures that a forthputting age is fast consigning to oblivion, by the torrent of new matter daily pouring forth from the press.

But the complaint of new books has long been the burden of the despairing student's song. More than a hundred years ago, the complaint was uttered in strains both loud and long, although Keble strangely enough asserted that "the multitude of books is no complaint of learned men, but of such as are *lazy and covetous*, who like nothing of charge or of industry, though they be not obliged to either."\* They have increased more than fifty fold within the last half-century, and almost beyond the power of any to read, but of those whose professional avocations are few; who are the very ones that are deficient in the means of obtaining them. *Digests, treatises, and abridgments*, those comforts and supports, are more numerous than the whole library of most of our jurists in the last century.

Many were doubtless encouraged to believe that the science, with such aids as these, would become comparatively easy; that the student would be peculiarly assisted in his efforts to unfold the mysterious and disentangle the perplexed. But instead thereof we are in a mighty sea of books, not yet at its flood. We can scarce glance at one, ere another rises to our view, laying perhaps an equal claim upon our notice and attention. At this time there are, in addition to English Treatises and Reports, more than *two hundred volumes* of American Reports, of various gradations of worth and importance; and they are increasing with wondrous rapidity. And unfortunate indeed

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\* Had Keble lived in our day, he would hardly venture such a remark.

must that brother be, who, in all the existing mass of authorities, cannot find something to illustrate a case he may have in hand, with common skill in analogical inquiry.

The labor of the student is not diminished. It has increased since the Revolution, and more particularly in the present century, beyond all former precedent. The multiplicity of books is not all. This indeed serves to confuse the mind, unless it is well disciplined, and to overload the memory; but with it have come in new branches. Formerly only a few books were necessary for those who were in pursuit of the *gladsome light of jurisprudence*; now, what is old presents itself in many new phases, while constitutional, maritime, and federal law, the broad and deep system of equity, with its spreading and beneficent influences, and an immense variety of legislative and judicial matter, arising from the numerous, complicated, and ever increasing relations of society, come forth as the fruit of an inquisitive and improving age. The study is of wider, deeper, higher reach; and the student, instead of being able to complain of mists, and of murky atmospheres, is now apt to be bewildered by the numerous cross lights that radiate on every side, and distract his intellectual vision. The study of the twelve tables was a task accomplished with comparative ease; but the *rescripts*, *edicts*, and *decrees* were a mighty mass, and collected into the *Code*, the *Digest*, the *Institutes*, and the *Novels*, with all the subsequent *Commentaries* and *Glosses*, they added a hundred-fold to the task, and no one could stand up and say, *I am master of the whole science*.

There is advantage and evil in a multitude of books. The former is well understood, while the latter some may consider at least as problematical. A few books well chosen, with the occasional oral instructions of a competent teacher, will prove most useful. The great object is to lay a broad, but simple, foundation; the elements of the science, with their various modifi-

cations, and the reasons of them, with the illustrations as few and succinct as the nature of the subject will admit, should be deeply impressed on the mind and memory, and be rendered an intimate part of the pupil's own knowledge. They will then ever remain fixed, and become the origin and centre of a vast system, standing out in bold relief, the primal elder truths, from which all others spring.

On the other hand a variety confuses; it begets what Lord Coke calls *a cursory and tumultuary reading, that doth ever make a confused memory, a troubled utterance, and an uncertain judgment*. It is glancing rapidly over the surface, and spreading over a wide extent, instead of searching in the depths for the treasures. At the same time it is apparent that the originality and strength of the mind suffer by pursuing such a course; except perhaps in a few of enkindling ambition, and exalted gifts. In general there is much tendency in mankind to consult ease and comfort, not only in what regards things external, but also in the exertions of the mind. They are fond of labor saving machines of any and every variety. This, in our profession, leads us to consult authorities pretty extensively for adjudged cases in point, which now are as common as were the visitations of Egypt in the time of Pharaoh. It is apt to satisfy us with our inquiry if successful, without going back to search into the reason that governs. But if cases are few and elementary principles much more numerous in comparison, then our powers are tasked;—we are thrown at once upon our resources; the helps and aids fail us, and we must “spend ourselves resolving;”—resolving doubts, and dark passages by the force of our own intellect alone. This affords the grand exercise of our reasoning powers; the nice and improving capacity of analysis;—the process of comparing, combining, separating, and searching, that gives strength and readiness to the powers of the mind.

It was remarked many years ago that although the science of

the law more than any other profession strengthens the mind, it does not enlarge it in the same proportion; and a distinguished writer of our own times and country asserts that all the professions have a tendency to narrow the mind. Admitting this to be true, and if admitted it is no more than is true of almost every subject pursued to the *entire exclusion* of all others, it cannot be predicated of our profession in the circumstances that surround it. There is no profession so intimately connected with the community in its various interests and wants, that so winds itself around, and penetrates society in its innumerable operations, and exercises so controlling an influence in its sphere of action.

The law, by this I mean the common law, in its early stages, was composed in part of technical rules, and partly of the deductions of natural reason. They are contained in the first place in the decisions of individual cases, not necessarily connected, nor perhaps dependent upon one another. In process of time these increase in number; they are governed by strict rule; they are arranged, divided into classes, and embodied with all the philosophy of induction. General principles are thus formed, which are illustrated by cases, and the law then becomes a science, of large extent, and embracing in its ever widening circle the countless interests of society, and containing rules of conduct applying to every emergency that may arise. It becomes our sustaining peace and happiness, dwelling with us at all times, encircling our persons, our characters, and estates, restraining the arm of violence, and preserving us in the enjoyment of our rights.

There is then nothing in the science itself that necessarily narrows the mind and excludes new and enlarged views of truth and duty. It cannot contract the powers of a spirit naturally stirring and inquisitive, though so far as it is technical merely, it may not enlarge the common mind in the same proportion that exercise strengthens it. The science of ethics, the extended

rules of right, applied to the ever varying combinations and relations of things—the pursuit of history, belles lettres, poetry, the natural sciences, natural, national, and constitutional polity, is a part of professional study properly conducted. And what is the law of evidence but a system of sound philosophy, deduced from the manifold developments of heart and character? In the practice too, although in the language of one of our poets, himself a jurist,

Forced to scrawl strange words with the barbarous pen,

there is much, apart from the glorious aspirations of eloquence, that extends the scope of the intellect. I will appeal to you, *in causis versatis*, whether it is not true that knowledge of human nature, of motives, of the various intricate readings of the human heart is aptly learned in the trial of causes, especially in the examination of witnesses; a knowledge as valuable as any that can be acquired in the conduct of life.

Such advantage do these pursuits afford, that the profession is called upon to enter into almost every public undertaking of whatever nature, and to take the lead in the changes and improvements that are continually going on. Now a wide intercourse with society is not apt to narrow, but rather to enlarge the mind, in the same manner, and for the same reason that foreign travel is supposed to produce that effect. This influence must be confessed to be powerful, though upon many persons, its result may be small:—for some minds of equal power with others have not the same capacity to become generous and comprehensive in their views. One individual in his study surrounded with the written wisdom of the dead, venturing but little upon the busy walks of life, may, and frequently does, attain to more of this quality, than another who has always mingled with the world at home and abroad, and been conversant in the active scenes of life, though in native strength of understanding they are equal.



After all it is only so far as the study is technical that it can be said in any measure to check the healthful efforts of the mind. But so far as it is concerned in the immutable rules of right and wrong, in the fundamental principles of justice; in short, whenever, it is studied with correct views, it partakes of the nature of that law *whose seat is the bosom of God, whose voice is the harmony of the world*. I see around me, I see everywhere, among the living, and in the great names of another day, illustrations of the truth, that, properly conducted, professional studies do not impede the aspirations of the mind, but may dwell in unison with wide views and proud scholarship. The law must be pursued in connection with other sciences and with literature, as it was in the days of the old Roman lawyers. To this profession have belonged "vast numbers of the most distinguished literary characters throughout Europe in all times;" and the same remark may be made according to our means and opportunities in this country, whatever the case may be with the members of the profession in England,\* the country where alone, if anywhere, the observation I have slightly dwelt upon has force.

I have touched slightly upon the difficulties and dangers of the profession. A few remarks upon the duties and obligations of its members may not perhaps be out of place. It may be well to glance for a moment at some of the peculiarities of our age and country, that have or ought to have their influence upon

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\* "England," says a writer in the *Edinburgh Review*, "has contributed several literary characters, but we lament to say, fewer in proportion than in other countries, because the laws of England have always been studied in an illiberal manner, and especially during the last century. We have lately witnessed a remarkable confirmation of this assertion. It was proposed in order to raise the character of the profession, to require a slight examination from the candidates for admission as students at the Inns of Court and to the Bar, as a proof that they had received the first rudiments of a liberal education. This reasonable proposition was however violently opposed, and by persons of merit and ability. In the ancient world the student of jurisprudence was invigorated by drinking largely of the noble fountains of philosophy, and by grammatical, logical, and rhetorical learning. A liberal profession was thus adorned and improved, by being blended with liberal pursuits." *Ed. Rev.*, vol. L., pp. 90, 91. *Review of the Byzantine historians*.

the profession. Perhaps there never was a period of the world more marked in many respects than our own. This peculiarity consists, more than in anything else, in the range that is given to the spirit of inquiry. The American Revolution, that has done and is to do so much for the wholesome reform and healthful action of government, was the ground work of that effort which is now so active and energetic. In a former period men rested much upon authority, ancient usage, and established opinion. It was seen in the reverence paid to reigning powers, however unrestrained; in the distant manners and bearing of parents to their children, in the awful respect paid to artificial rank, and the veneration for age though accompanied by ignorance and folly. The whole form, fabric, and intercourse of society were so moulded as to prevent the over-stepping of prescribed limits. Men believed as their fathers believed, and walked as their fathers walked. It was enough for an opinion that it had the sanction of age, the respect of the prudent, and the injunction of the wise. As this feeling pervaded society, it was exerted over the whole frame of the mind, and the influences of religious faith were called in to give a sacred cast to the existing state of things. If any movement was made, or if any new doctrines were broached, the cry of treason or of heresy was sounded aloud. How far this old order of things was good, and how far evil, it is not at present necessary to consider, but merely to take notice of the fact, and trace the progress of the change.

From this blind and implicit faith in matters, temporal and spiritual, the world has ventured forth to a great, and in some instances, almost to a reckless course of inquiry; and we are far more likely to be overwhelmed in the ocean of universal scepticism, than to fall again into the opposite error. This fondness for innovation has marched with triumph into our profession, and has fallen with unrelenting hand upon that venerable pile, the common law. I allude now more particularly to what has

been done in England, though also in a degree to the progress that has been made amongst us. We indeed destroyed many of the antiquated and useless out-works at our first settlement, and made many changes and improvements in the building itself.

The common law has been dwelt upon with complacency for so many ages, that it has been considered almost heresy to doubt its being the perfection of reason. It has had the same prescriptive right to veneration that the precepts themselves have had to an existence that entitles them to prescription. And Lord Coke calls it, in the warmth of his enthusiasm, the *absolute* perfection of reason. Even so late as the time of Blackstone, it was held by him as possessing *mens quaedam divina*, all whose rules were just, all whose punishments were mild, all whose remedies were perfect; visiting the offender with certain condemnation, if not rewarding the industrious follower of rectitude and order. Nor was he willing to acknowledge how much it was indebted to the civil law for its best rules of liberal justice and equity.

An attack upon the *common law* was almost as heinous as an attack upon the *throne* or the *establishment*. But now the whole system of English jurisprudence, is, as it were, afloat. Humphrey's thorough and searching investigation of the numerous perplexities and absurdities of the law of real property, Brougham's Speech in Parliament, that wonderful effort, where he sifts the whole subject of the common law, save the part treated of by Humplrey, and the system of equity, commercial and criminal jurisprudence;—these, together with the changes in criminal matters, the new enactments in bankruptcy, and the learned commissions sent out of Parliament to inquire into the course of legal remedies, the law of real property, and the defects of the Chancery Court, have created a new, and most astonishing, era in the history of the common law. The old opinions, touching the *absolute perfection of reason*, have been completely broken

down; numerous and radical changes in this department may be expected, and indeed have already, in part, been recommended by the commissioners: following *longum post intervallum*, our improvements of the seventeenth century.

Another circumstance of the present day, and it is an evil of no small magnitude, is the rage for legislation. For no sooner does a principle of the common law seem in any measure severe in its operation, than the legislature interposes and makes a change, whether the evil be fancied or real. This is a matter I trust which the whole profession will join in condemning. I speak of it as an evil. Hasty and imperfect legislation fills our law with doubt and mystery, unsettles old principles, and frequently, while in appearance and intent it makes but a slight alteration, spreads confusion over the whole subject on which it touches, increases our labors to a large extent, and adds greatly to the amount of litigation.

Permit me now to turn to another subject, which is of paramount interest and moment to each one of us. It is the solemn duty, and it should therefore be the chief endeavor of every one who enters into the profession, to be furnished with a thorough education. I do not mean merely an acquaintance with books, with their substance treasured up in the memory, but that larger culture that serves our purpose in the busy theatre of the world, by acquiring a knowledge of human nature in its strange varieties, by a severe analysis of what we have gathered, aided by our own reflection, and by classing it all, that we may, in every way, turn the labors of others, the dead and the living, to our own profit and advantage; so that when called into the *imminent breach*, we may be thoroughly furnished with all our arms in readiness to do us service.

But while I venture to speak of those less severe studies that please and adorn, if they do nothing more, and constitute the

highly finished Corinthian capital, I am reminded that this is termed a practical age:—

“ These are not the romantic times  
 So beautiful in Spencer’s rhymes,  
 So dazzling to the dreaming boy :  
 Ours are the days of fact, not fable,  
 Of knights, but not of the Round Table ;  
 Of Baillie Jarvie, not Rob Roy :  
 ’Tis what our President Munroe  
 Has called the era of good feeling,  
 The Highlander, the bitterest foe  
 To modern laws, has felt their blow,  
 Consented to be taxed and vote,  
 And put on pantaloons and coat  
 And leave off cattle stealing ;  
 Lord Stafford mines for coal and salt,  
 The Duke of Norfolk deals in malt,  
 The Douglas in red herrings,  
 And noble name and cultured land,  
 Palace and park and vassal band,  
 Are powerless to the notes of hand  
 Of Rothschild or the Barings.”

This indeed is poetry, but it is truth without embellishment, and not an unjust delineation, so far as it goes, of things as they are. The world has become remarkably busy and straight forward. There is no room for the dreamer now ; and even our poets must seek support as editors of political prints, or as servitors in the temple of mammon. Alas ! how this word *practical* has been abused. It is lisped by the smatterer in physics ; it is in the mouth of thousands whose ideas on the subject are as vague and insubstantial as their attainments are meagre. It is the popular hobby of the day, and bids fair to trench materially upon the more ethereal province of the mind, upon that refinement of the intellectual sense that constitutes the noblest part of our nature. We are pressing on in these things, as if life itself hung upon the issue, as if the race were not indeed of secondary importance, and success when obtained but an imperfect gratification. Speak to one of this cast of the refine-

ments of learning, or of the philosophy of the mind, he will reply, *cui bono?* He can see nothing of interest, nothing of value, beyond the pursuit of those sciences that dwell upon material objects, or that, in some way, are the direct means of obtaining wealth. I would be far from placing a low estimate on these sciences. I am aware of their vast importance and of their beneficial tendency, for they are seen everywhere. But the war waged by some of their followers against every study that does not *directly* tend to promote an early, tangible result, is begun without reason, and will be followed by an unhappy issue. This disposition would compel us to be hastening on and to pass through the seven stages, and scorn all those beautiful episodes scattered here and there, that give life so much of its charm. We must press forward; we must gather wealth beyond the dreams of avarice, population must increase in an unheard-of ratio, or fears are excited that the country is becoming weak, and the slow progress is lamented, as if an influx of any and every thing from abroad were to be preferred to a gradual and healthful increase. It is this tumultuous spirit of haste that in many places pours the imperfectly educated into the ranks of the profession; *deformed, misshapen, not half made up*, without those proper notions they should first possess, and ever retaining, notwithstanding their after efforts, the peculiarities, and deficiencies arising from defect of early mental discipline. Hence is derived the reduced standard of professional excellence; hence comes legal merchandise and exchange—the *auri sacra fames*, the outer and lower forms of the profession.

The importance of a finished education cannot, it seems to me, be too earnestly urged, upon this or any other occasion. There never was a time when it was of more importance, because of the growing disposition in our country to the unwise spirit of haste to which I have alluded. There is no way in which we can be respected by the public, but by *deserving* the general re-

spect and esteem. The discipline of the student should be as thorough as possible in the professions, and embrace a wide range of objects beyond. But the *law* demands a large portion of time, and will not allow her disciples to *tread the primrose path of dalliance*, to the interruption of her claims. It is a profession where a sound mind is more successful than great genius; but it must be the clear mind, that looks *before and after*; and though like Carneades of old, all may not be able to dispute with power on both sides of the same question, and throw a mist around sophistry that can hardly be dispelled, they may be able to speak the language of truth, and do good service within the sphere of their influence. Severe study and long practice can alone make the accomplished lawyer. Study and practice must be united. "No man," says Coke, "can be a complete lawyer by universality of knowledge without experience in particular cases, nor by bare experience without universality of knowledge." How true this is can be well attested by the junior members of the profession, who will feelingly declare that infrequent opportunities are but so many repetitions of embarrassment, and of no small confusion in gathering and bringing into the field their intellectual resources.

The necessity of being well versed in special pleading has often been urged upon the profession. Undoubtedly it is of great importance. But how few of us,—I had almost said, where is the man,—who is acquainted with all the mysteries and subtle logic of special pleading? Instead of the ancient strictness, where indeed form was oftentimes more regarded than substance, and where he who fell in the letter, fell without remedy, has not an undue laxity been suffered, and almost encouraged, at the Bar, on the principle, perhaps, that we might ourselves be taken *in pari delicto*? When a nice special plea is necessary, what study is required, and intense reference to books and the operations of the mind, to make up for that familiarity which

use would give. In the reign of Edward I., counsellors were amerced for bad pleading, or *pro stultiloquio*, as it was termed. And in the reign of Edward III., in a writ of right of ward brought by the Duke of Lancaster against the Count Surry, Sir Robert de Wilby remarked to the Bar, that he had seen the time *when an error in pleading was punished by imprisonment*.\* A merry company indeed should we now have, if this visitation were upon the heads of this generation. Hear Lord Coke on the subject:—"Good pleading hath three excellent qualities; that is to say, as Littleton saith, it is *honorable, laudable and profitable*. *Honorable*, for he cannot be a good pleader, but he must be of excellency in judgment; *laudable* for the fame and estimation of the professor, and *profitable* for three respects:—*first*, good pleading is *lapis lideus* the touchstone of the law; *secondly*, to the client, whose good cause is often lost, or long delayed for want of good pleading; *lastly*, to the professor himself, who, being for skill therein exalted above others, "*tanquam inter viburna cupressus*, it cannot but be unto him exceeding profitable."

The argument thus quaintly expressed would seem to be sufficient to show the importance of this branch of the law. In England it is still held of the highest importance, and the special pleaders are a distinct class in the profession; and it is still observed, although since the statute of 4 Geo. II., c. 26, by which the proceedings in the courts were ordered to be in English, without any abbreviations, pleadings have gradually become quite diffuse and prolix.† The existing defect with us may be traced, perhaps, to a dislike of the ancient strictness of captious

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\* "*J'ay view le temps que si vous usses pled un erroneous ple, vous alastes al' prison;*" and then adds, "*et vous nous tenes fooles.*" 24 Edw. III., fo. 48.

† For a short time during the administration of Cromwell (1650), pleadings were ordered to be in English. This act, after the Restoration, was called a *pretended act*. Before Cromwell's time, pleadings were required to be *enrolled* in Latin, although they were to "be pleaded, shewed, answered, debated, and adjudged in the English tongue." 36 Edw. III., c. 15.



pleas, where pleas in abatement and special demurrers to declarations were filed almost as a matter of course. Thus in avoiding one extreme we may fall into the other, and may find it as difficult to strike the happy medium in the law, as in conflicting religious faiths.

A jurist must be *ad unguem* in every particular. Let him raise himself by his own exertions, and he will stand on the firmest basis. He cannot, as may be done in some other pursuits, build himself upon another's fame. Let him aspire to rank and dignity in his profession, and scorn to be a mere *legal broker*,—a dealer in dollars and cents. He cannot be too diligent, in season and out of season. Nor let it be said that he has no time to become a respectable scholar. For it is not true even with those most thronged with business. Who are our literary men, who our *ripe and good scholars*? Who are they who are ready to serve the occasion, and to appear in the cause of good letters? Who are the most active and efficient promoters of schemes for the public good? Are they not the men who are engaged the most assiduously in the exhausting labors of professional life? Yes, truly, it is they who, by a rigid economy of their time, accomplish the most for the common good. And you will look almost in vain out of these walks for distinguished scholars. Time may be found for all praiseworthy purposes. An hour a day, however small a fraction of time it may seem by itself, snatched from listlessness or vain conversation, is ample to acquire, in the course of a year or two, a new language, or to gain the knowledge of some new subject of study. It is somewhere related that Chancellor D'Augesseau composed his great work by applying to its preparation those little fragments of time in which daily, for years, he was kept in waiting for the appearance of his lady at dinner.

Of the many studies that should fill up the intervals of professional labor, much must be intrusted to individual taste. But

perhaps it may be permitted me to say a word in favor of those classical studies, that were a part of our early education. It is of the greater consequence to mention them, from the circumstance that they are soon apt to be neglected, and to be set aside as useless lumber, by many who have been early though perhaps only partially indoctrinated; while other kindred pursuits in literature are kept up.

I am aware that I am touching upon a subject, about which much has been said; but I am addressing myself to my brothers of the profession; and I must confess that I scarcely know of a pursuit more pleasing as a relaxation from professional labors, or more *useful* than this. I would that the attacks upon the learned languages were confined to men of meagre learning, who are ignorant of their beauties and advantages. But there are some others, a small class, who not readily perceiving the firm but invisible chain that encircles and connects all our knowledge, are liberal of their censures. I hope and I trust that these dogmas will not gather such strength as to sweep away from amongst us what has throughout christendom been the groundwork of good education for centuries.

These studies are looked upon as having nothing in common with the spirit of the times, and as opposed to all that some are pleased to call practical knowledge; and, forsooth, because they are not perceived to be of service in enabling a man to cultivate the earth, or to pursue more successfully the exact sciences, they must be thrown aside as useless. Can nothing be of use but that which comes directly under the notice of the senses;—nothing but what we can eat, drink, wear, or feel? Is the enlargement of the mind by the accession of new ideas, the strengthening the capacity by new acquisitions, nothing? What is life for? Is it for material objects alone, and for researches into external nature? Is not the highest cultivation of the intellectual principle, the highest pursuit, and the chief glory of

our nature, contributing largely to our advancement and happiness?

But time is wanting, it is said, and days and years are wasted in the pursuit, and when we are immersed in the busy scenes of life all that is acquired is forgotten. I would not claim that all should be ripe scholars; but it should be strenuously urged that this pursuit should be the basis of an education where a youth is designed for a profession, and further, that the discipline should be early commenced.

The studying of the language is the embodying of thought, and therefore the proper early pursuit of the young; and it fills up the interval that cannot otherwise be profitably spent, without interfering with any other studies that are appropriate to the age, and ere the mind is ripe for a severer task of its powers. The want of time exists only in seeming. It is, where a youth has capacity, synonymous with incapacity in the instructor; for, in addition to other considerations that might be mentioned, it has been ascertained that a class pursuing the classics and English studies together, will make, in a given period, greater progress in the latter than a class devoted exclusively to English. The classics, in the quaint language of another day, "have put off flesh and blood, and become immutable." Their excellence is fixed, their character is unalterable.

Nor is it true that the fruits of these studies are lost by neglect in the busy scenes of after life. Those who make this objection, forget the end while they are censuring the means. The *knowledge* may be lost by neglect, but the *effect* will remain, in a good degree. The objection has its origin in a mistaken view of the design of these studies. It is not so much, in youth, for the *knowledge itself*, that these should be pursued, although that is of importance and value, as for the mental discipline they afford, and the strength they give to the powers of the understanding; and though we may forget the rich periods of Cicero,

the terse and comprehensive style of Sallust and Tacitus, and the harmonious numbers of the poets, the *uses* for which we entered upon them remain undying.

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Nunc adhibe puro  
Pectore verba, puer; nunc te melioribus offer,  
*Quo semel est imbuta recens, servabit odorem*  
*Testa diu.*

It is a study that is delightful at all times, and in the words of the Roman orator, like the cultivation of a taste for poetical studies, it adorns prosperity and is a refuge in adversity; at home or abroad, in the country or in the city, everywhere, and at all times, it is a pleasing companion.

We surely are in no danger of pursuing these quiet studies too far. It is an important subject, but I have said less about it than its quality demands, and with less power. It requires more time than I can devote to it, to do it justice. Nor, I trust, is it necessary to enlarge upon this topic, before so respectable an assembly. It is sufficient to make suggestions, and they will have with you all the weight they deserve. But I could not forbear touching incidentally upon the subject. Much might be done if our scholars would endeavor more zealously to impress upon the literary community just views concerning classical pursuits and attainments, and endeavor, with one accord, to restore them to their proper rank in the republic of letters.\*

An additional and powerful argument for the cultivation of letters is derived from the circumstances of the times. The pro-

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\* Since the above remarks were delivered, this subject has been introduced to the consideration of the Board of Overseers of Harvard University, by President Quincy. At the semi-annual meeting of the Board, in January, 1830, the recommendations of the President, in relation to further facilities for the study of the Ancient Languages, were cordially received, and adopted. It is well for the interests of good letters that such sound views upon the subject are entertained at the University, as are contained in the President's Report to the Overseers, and more particularly in his sound, judicious, and truly excellent Inaugural Address.

fession is so crowded,\* the competition is so close and earnest, that feeble intellect or mean attainments cannot expect success. As formerly, in the influx of trade, almost every merchant could amass property, and if he cast his bread upon the waters it would soon return to him manifold, while now a good voyage is matter of much study and calculation; so in our profession, in early times every apprentice in jurisprudence acquired estate, though he merely dealt in the brokerage of the profession; while now a small measure of learning will not answer the purpose.

It is another argument that all other classes in the community are hastening on in the great work of education, and using all the aids that determined spirits, with our free institutions, and the general character of our people, require, and are taking higher stations in society. It must not be that they shall be in advance of us in good learning and in the career of improvement. Shame be upon us if such should be the issue of the exertions of the present day. The profession is still looked upon to bear its part in the general concerns, and to possess that true patriotism which is discovered in vigorous efforts for the welfare of the whole. It should never consent to follow in blind subservience, but mingling with society in its various relations, to mark the onward path and keep the advance.

None know the labors of professional men but those who have pursued the same studies. The study of the law, as we all believe, can never be made easy; and happy therefore is it that the value of what we obtain is in proportion to the difficulties we have to encounter. Look at the successful jurist; see his diligent labors by night and by day; the severe and critical sifting of arguments; the close investigation of principles; the elaborate

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\* The whole number of lawyers in the United States is estimated at 9000. In Massachusetts there are nearly 600. The new law list in England, it is said, contains the names of 1036 barristers, 138 counsel under the Bar, conveyancers, and special pleaders. This is exclusive of attorneys in London estimated at 9055, and in the country at 2667; making a grand total of 12,896.

and eloquent exposition, and the strength of reasoning, all brought in formidable array to bear down the adversary. Look at the variety of his employments and cares; his promptitude in meeting and even anticipating a host of objections; his power in analyzing and grouping the masses of testimony; in strengthening his own weak points and sweeping away the strong ones of his adversary, and, *poured round all*, the fascinations of manner and the embellishments of taste and learning, and this will satisfy us that to be really distinguished is no mean excellence.

There are motives to exertion that particularly apply to our association, whose members are away from the crowded resorts where daily collision takes place between mind and mind. Exertion, except in those happily constituted, is apt to falter, unless there are some exciting causes continually in action. Much reflection and stern resolution are necessary with many, to supply the deficiencies of place and to prevent the corroding rust that is formed by neglect, and finds its way to the very interior of the intellect. Let us imitate the example of illustrious predecessors:—of Coke in his industry, who “thanked God that he never gave his body to physic, his heart to cruelty,\* nor his hand to corruption”:—of Hale, the proudest because the purest name in English history; “of unblemished integrity and uprightness in every character of life,—of generous frankness and open sincerity in conversation, of unalterable adherence in all stations to the principles of civil and religious liberty, accompanied with a serious regard to true piety;”—and, in the words of Baxter, “that unwearied student, that prudent man, that solid philosopher, that famous lawyer, that pillar and basis of justice, who would not have done an unjust act for any worldly price or motive; the ornament of his majesty’s government, and honor of England, the highest faculty of the soul of Westminster

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\* From this, however, I should except his conduct on the trial of Sir Walter Raleigh that was marked with extreme severity and ill manners.

Hall, and pattern to all the reverend and honorable judges ; that godly, serious, and practical christian, the lover of goodness and all good men, a lamenter of the clergy's selfishness, and unfaithfulness, and discord."\* Let us imitate the example of Selden, Clarendon, Holt, Hardwicke, Nottingham, Mansfield, Thurlow, Sir William Jones, and the host of worthies, the lights of Westminster Hall :—and of our own numerous distinguished men in the profession, who have done so much for themselves and the country ; and dwell upon the recollection of the gifted jurists who aided in the cause of our Revolution, and in the establishment of our frame of government,—of Hawley, James Otis, Adams, Quincy, Ellsworth, Hamilton, Jay, Wythe, Jefferson, Richard Henry Lee, Randolph, Henry, Parsons, Gore, Ames, Dexter, King, and as the eye traces backward the course of time, and we see their venerable forms passing in review before us, like the Trojan hero we would exclaim—

“ —————Manibus date lilia plenis :  
Purpureos spargam flores.”

It was men of this cast, who in stormy periods girded on the armor, and subdued might to the empire of justice. They were of that popular cast in the profession, answering the description of James, the *pedant* and *king*, who, when the twelve judges were brought before him in the case of the commendams, declared “ that ever since his coming to the crown, the popular sort of lawyers had been the men that most affrontedly had trodden upon his prerogative.”

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\* It shows the independence of Sir Matthew Hale, who was a judge during the time of the Commonwealth, as well as in the reign of Charles II., that when Cromwell urged him to accept the commission, he declined, giving as a reason that he doubted the lawfulness of the Protector's authority. The reply of Cromwell was highly characteristic of that strange but powerful man ; viz. *that since he had got the possession of the government he was resolved to keep it, and would not be argued out of it : that however it was his desire to rule according to the laws of the land ; for which purpose he had pitched upon him as the proper person to be employed in the administration of justice ; yet if they would not permit him to govern by red gowns, he was resolved to govern by red coats.*

The moral influence of the profession may be made still further of benefit by earnestness and activity among its members. As temptations to err are more numerous than those that beset other professions, the confidence reposed by the community in those who pursue jurisprudence, is a silent but noble and conclusive tribute of praise. It should be equally our comfort and pride to bear testimony to the high and honorable feeling which is a distinguishing characteristic of the jurists of our Commonwealth. Let us cherish this conservative principle of rectitude, and scorn everything that looks remotely towards prevarication, deceit, or any other dishonorable conduct. And if at any time, by any unfortunate combination of circumstances, there should be any one among us, which God forbid, who is a disgrace to his name and office, and tends to bring odium upon the profession, let there be *no false delicacy* in purging our ranks of the offence, as we would our dwellings of a pestilence. For we are not only placed in a situation that tasks to the utmost the manly intellect, but, apart from higher motives, we are in the presence of a world that scans with no delicate criticism, and is not sparing of its censure:—

“*Esto bonus miles, tutor bonus, arbiter idem  
Integer; ambiguae si quando citabere testis  
Incertaeque rei, Phalaris licet imperit, ut sis  
Falsus, et admoto dictet perjuriam tauro,  
Summum crede nefas animam praeferre pudori,  
Et propter vitam, vivendi perdere causas.*”

There is no moral power greater than that which a man of leading and pure mind may exercise in the community. He moves in society with a salutary example. His words, his actions, his whole course of life constitute a precept of the noblest kind, and with the highest sanctions. To those of every age and condition he comes with beneficent aid; and when his elements are mouldering in the dust, a bright lustre arises from his tomb, that continues to scatter light amid the debasing selfishness of the world.



To men of this cast, society owes much; and if with their other knowledge they are versed in the principles of jurisprudence, when the clouds gather and the storms arise, which feeble men may put in operation, but cannot control, and public danger is upon us, it is to such men we look for counsel and guidance.

I have thus endeavored, gentlemen, according to the measure of my ability, to touch upon some subjects which it seemed to me, might be of interest to us, at least for the time being, if of no permanent value. I have given a relation, imperfect I fear, of the early history of the Bar in this large and respectable county. Happy shall I be if any efforts of mine may be so far blessed, as to preserve any important facts, or the names of any individuals who were distinguished in their places in the elder day; thrice happy if any one suggestion or remark shall have the tendency to cause us to place a higher value on our profession, and on the pursuit of letters. And as time passes on, when lingering on the borders of life, in expectation of a speedy release from its burdens and cares, from its mingled scenes of happiness and sorrow, may it be our joy, our sustaining reflection, that the profession of our choice, and the cause of good morals and sound learning have not been degraded in our hands.







Forbes Sc

*Charles Allen*

ADDRESS OF HON. EMORY WASHBURN.



At a meeting of the Bar of the County of Worcester, held in pursuance of notice, at the Law Library, September 15, 1855, Hon. Ira M. Barton was called to the chair, and Joseph Mason, Esq., was appointed Secretary.

On motion of the Hon. Nathaniel Wood, of Fitchburg, a committee was raised to consider the subject of a Social Festival of the Bar, with instructions to report at a future meeting, and the following gentlemen were appointed:—

IRA M. BARTON,  
NATHANIEL WOOD,  
BENJAMIN D. HYDE,  
FRANCIS DEANE,  
GEORGE W. RICHARDSON,  
HENRY CHAPIN,  
GEORGE F. HOAR.

During the Law Term of the Supreme Court, holden at Worcester on the first Tuesday of the next October, the Committee reported in favor of such a Festival, to embrace also the objects of an historical address, the improvement of the County Law Library, and the formation of an Association of the Bar.

The Report of the committee was unanimously accepted, and the same gentlemen were appointed a committee of arrangements, to carry their recommendations into effect.

The time and place designated for the Festival, was Worcester, February 7, 1856, it being the day of the first semi-annual meeting of the Justices of the Court of Common Pleas, in that city; and the Hon. Emory Washburn accepted an invitation to deliver the address upon the occasion.

Distinguished members of the Bar and of the Bench, from Massachusetts and the neighboring States, were invited as guests, and on the day appointed, at 5 o'clock P. M., at the New Court-house, Ex-Governor Washburn delivered his address.

The subsequent action of the Bar is shown by the following letter of Judge Barton:—

WORCESTER, *February 22*, 1856.

HON. EMORY WASHBURN.

*Dear Sir:*—As Chairman of the Committee of Arrangements for the recent Festival of the Bar of the County of Worcester, and in pursuance of a vote of the Bar, I am instructed to tender you “Their sincere thanks, for your valuable, interesting, and eloquent Address, delivered on the occasion, and to request a copy of the same for publication.”

Very Respectfully Yours,

IRA M. BARTON.

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WORCESTER, *March 1*, 1856.

*Dear Sir:*—In complying with the request contained in your note of the 22d ult., I am performing a pleasant duty, rather than following any personal wish to give publicity to the address.

The memorials that a lawyer is ordinarily able to leave of his efforts at the Bar, are necessarily brief. The arena upon which his powers are exercised, is removed from public observation, and some of the noblest exertions of the human intellect have been spent in determining questions of private right, to be forgotten with the occasion that called them forth. If, therefore, my brethren have furnished me an occasion to collect some memorials of those who have heretofore filled places at the Bar, and are willing to give them a more permanent form than the entertainment of a festive hour, I do not feel that I have a right to decline the request.

I am, Very Respectfully,

Your Ob't Serv't,

EMORY WASHBURN.

HON. IRA M. BARTON, *Chairman, &c.*



## ADDRESS

OF HON. EMORY WASHBURN.

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I AM to speak this evening *of the Law and its progress*, and of *this Bar and its changes*, during the last twenty-five years.

Measured by the experience of a life, how large is the space which that period occupies !

Of all those who filled the places we occupy, twenty five years ago, how few are here to-night, to share in the reminiscences which it is designed to awaken. And what a grave has been opened and closed over bright hopes, generous aspirations, and stirring ambition, in the solemn experience of these few brief years.

What a change have they wrought in the individual man ! The stout frame has been bowed, the flowing locks have been bleached and scattered, the beaming eye clouded and dimmed, the gladsome spirits saddened, and the shadows of coming evening grown fearfully long, as the lingerer stops in his lonely walk, and looks around in vain for some once familiar companion of his earlier days.

They found a young man full of hope, they have made him an old man full of experience.

But if we contemplate this period in contrast with the life of the Common Law, of whose history it forms a most important chapter, it dwindles to the measure of a moment's space.

The origin of that system is indeed so distant that the long vista of ages, through which alone the mind can regard it,

blends in its perspective, the hues of truth and error, like the melting of the dim outline of the blue ocean with the bluer-sky, when we look out upon its waters, as they sleep in the stillness of a summer's twilight.

I go back in my research to the day when Rome was gathering up her giant limbs to die, and left the few and scattered fragments of her imperial institutions, like the relics of half legible inscriptions, and old imperishable stone-work, on which the eye of the antiquary reads the tale of the five centuries of Roman power and glory in that island.

I trace the slow and silent growth of institutions, which, through another period of six hundred years, were springing up, under the rule of a rude people, and I pause to admire the sturdy independence, so nearly approaching to freedom, of the Saxon, while I read the simple but wise ordinances of Ina and Alfred, and listen to the counsels of their Wittenagemot—the future Parliament of Great Britain—and mark the first rough outline of that form of trial, which has since protected so many against the power of the oppressor, by the majesty of a juror's oath.

And as I contemplate this broad, deep-laid, rough foundation of Saxon law, I see planted and rising upon it, that stupendous fabric of Feudalism, which the Norman conquest brought with it as the element of its power and its perpetuity. The Baron's castle in the midst of his broad domain, is frowning over the hut and cottage of his vassal and his serf. The mitred Bishop keeps the conscience of the King, and is stealing in upon the frank and manly doctrines of the English law, with the subtle and artful inventions of the church, while the monarch is himself waging an unequal contest against the ascendancy of the Pope on the one hand, and a storm of domestic faction with his Barons on the other.

I see these Barons gathering at Runnymede, and among the

memorable records of what those stern old warriors thought and did there, I read as a concession wrung from royal fear, but treasured forever after in a nation's heart, the development of that great element of personal right and private justice—"Nulli vendimus nulli negabimus, aut differemus, justitiam vel rectum."

And as we recall that scene in fancy, and the thought flashes across the mind that some gifted spirit among those men of iron nerve, may, with prophetic vision, have read that memorable declaration, as we may now, engraved upon the seal of a Court of Common Law, presiding over the civil rights of a million of Freemen, with a wisdom and learning of which the pages of Glanville and Bracton furnish but barren rudiments,—in a land which even fancy had, till that moment, never conceived, the whole comes back upon the imagination, as a spectacle of moral grandeur, compared with which the by-play of war sinks into insignificance.

I trace, still onward, that course of events, which, infusing new elements into the body of the law, changes not only the relations of property, but the very ideas of social duties and political rights.

The cunning shrewdness of the clergy has substituted, under the guise of "Uses," the superstitions of a vitiated conscience, for the plain, homely precedents of feudal simplicity, cheating alike the crown and the Lord of their cherished prerogatives, and gathering into the granary of the church the best fruits of the English soil, in spite of charter and of statute.

There is something even dramatic in witnessing this struggle—sturdy, English doggedness triumphing over priestly cunning. Parliament has met at Merton. The Bishops are seeking to introduce their own canon law, and are ready, in order to accomplish it, to minister to the passions and vices of the impulsive Barons. But the appeal is vain. In terms which could not be mistaken, and in words which will be read with admiration in

after days, they tell those ambitious churchmen, "nolumus leges Angliae mutare," and England and her institutions are English still.

I pass over another period of four hundred years. A long and severe struggle has been going on, the anathema of the Pope and the thunder of the vatican have lost their terror. Interdict and excommunication can no longer clothe a people in sackcloth. And the prestige of royalty itself has ceased to dazzle the eye of a fickle multitude. A Plebeian Parliament has laid sacreligious hands upon the Lord's anointed.

But Law has been, during all this time, silently gaining strength and consistency in the kingdom, and the people are beginning to learn that without rules to guide and check their rulers, the rights of the citizen can never be secure.

And when, at last, that feeling of an Englishman's loyalty, which had been cherished by the teachings of a thousand years, triumphed over the party of freedom and fanaticism, Liberty was found asserting her claims in behalf of private right, and personal security against power and prescriptive wrong. At one blow, Chivalry and Knight service, under which the tenant of every manor in England had been groaning for six hundred years, were laid prostrate, while that single engine of magic power, the *Habeas Corpus*, was placed within the reach of the humblest citizen, and at its touch the bars and bolts of the deepest dungeon gave way, and the fetters of the oppressor fell broken from the limbs of his victim.

As we come down from this eventful period, our pathway grows luminous and clear in the light of Judicial learning.

The struggle between prerogative and the people, between the crown and the priesthood, has passed and is passing away, while the cumbrous framework of antiquated forms is giving place, in the study of the jurist and the statesman, to the vitalizing principles of social advancement and individual right.

Commerce and Trade are fixing more firmly their marts in the growing cities of the kingdom, and thrift is rewarding the enterprise of toiling industry.

The Common Law, in the meantime, has kept pace with the changes that are thus going on, and has expanded to meet the unaccustomed wants of a community no longer confined to the culture of the soil.

Under the guidance of her great masters, her Holts, her Blackstones and her Mansfields, she has added to her primitive elements, what she has gleaned from the systems of continental Europe, and especially from the great storehouse of Roman Jurisprudence, the elements of symmetry and consistency which adapted to the condition of a commercial people, the rugged relics of feudalism and the business of arms and agriculture which still give character to her laws, and form the basis of her constitution.

The heretofore rival systems of law and equity, have learned how to blend and harmonize with each other, under the administration of the Hardwicks and Camdens of the time, till a system of Jurisprudence has grown up and become incorporated into the constitution of the government, surpassing that of Rome in the brightest days of her glory.

Fifty years more in the history of the English law, and we find ourselves at the commencement of the period to which I am limited in what I am to say this evening. Yet brief as is this little space on the great chart of English history, I am greatly misled or we shall find that more has been accomplished in changing some departments of the law, and in fitting and adapting the great body of its principles to the practical wants of the community, than had been effected in either, if not all the antecedent periods of which I have spoken.

Those periods had been either too dead for action, or too full of struggle, as it were, for life itself, to allow the action of great

minds, such only as can work out great problems of reform, in a field so uninviting as the details of administering private justice. The public mind was too much engrossed to heed the absurdities and inconsistencies which deformed the patch-work systems of local customs, ancient usages, and statute expedients, which made up so much of the existing body of her municipal institutions.

The first and earliest of those periods can hardly be said to belong to the historic age of the law.

The elements of society were being shaped into the form and consistency of the state. But the extent to which the masses had rights to be protected, or, that they should be provided with remedies for private wrongs, beyond something like a domestic police, seems to have entered but feebly into the spirit of its rulers or its laws.

In the next era, we see little more than a long, doubtful, three-sided struggle between the Crown, the Barons, and the Church, in whose alternate successes the people came in for a meagre share only of whatever was gained by either side. A strong national feeling was growing up among them, it is true, but it was, after all, a period of struggle between masters, in which the people were chiefly passive and their rights unheeded.

Nor was it till the spirit of inquiry which the Reformation awakened, had infused life and energy into the torpid action of the popular mind, that the great third estate—the Commons of England—learned how to measure the power they afterwards wielded.

It would be pleasant to pause in this rapid review, on what was achieved for the cause of popular right during the Commonwealth and at the Restoration, and especially in the so-called Revolution of 1688, when the hallowed sanctity of royal prerogative gave way before the storm of popular indignation. It would be pleasant to trace how the learning and independence of Coke, the profound sagacity of Bacon, the mild virtues and

uncompromising integrity of Hale, and the varied labors of the patriotic and upright Somers, became inwrought into the science of the Common law, while Courts and Juries were gaining that independence which was at last guaranteed to the Judges of England, by the act of William III. And it would be no less interesting to trace how questions of personal rights, and rights of property, at last, became the engrossing business of the courts, in place of what should be the limits of prerogative, the jurisdiction of rival courts, or by what means the power of a papal hierarchy should be disarmed of its terror.

It should be borne in mind that the commercial spirit of the last century was engrafted upon the landed interests of England, for the regulation and preservation of which so much of the Common Law had come into existence. And the facility with which these were blended into a common system, and administered by the same courts, is but another illustration of the wonderful adaption of that Common Law, to the wants and condition of a nation made up of men in all the walks and employments of life.

When, therefore, the attention of the leading minds in the kingdom had been withdrawn from the political excitements, and the almost continuous wars in which the nation had been engaged for more than a generation, it is not surprising that it should have been directed to the incongruous materials of which the Common Law was composed,—the customs and forms of the days of the Henrys and Edwards registered upon the same page with the broad cosmopolitan jurisprudence of an era of arts, and commerce, and navigation.

Among these stand prominently the names of Romilly in the department of criminal jurisprudence, and of Brougham in the various other departments of the law, as the reformers of the present century.

Those who are familiar with the changes which have actually

been accomplished in England during the last twenty-five years, will be ready to accord to it the character of the great age of English legal and judicial Reform.

Indeed, so rapid and important have those changes been, that it was stated by a writer in Blackwood, that, when recently, one of the leading lawyers at the Queen's Bench proposed to republish Blackstone with corrections and additions that should adapt the work to the present state of the law, it was found that, with the exception of the first volume, the identity of the work would be destroyed, and the proposal was abandoned after the publication of a single volume.

Neither good taste nor your patience would admit of my dwelling upon these at large, and I can therefore name only a few. Among these, Fines and Recoveries, the long tolerated farce of feigned issues, fictitious parties and false records in a grave Court of Justice, are forever abolished. Conveyances of land have been stripped of their useless verbiage, and rendered simple and intelligible. The mystic subtilities of lineal and collateral warranties, no longer puzzle the brain of the lawyer. The forms of more than fifty actions at the common law have been expunged. Volumes devoted to points as nice as the line between the north and northeast side of a hair, upon the interest of witnesses, have been rendered pointless by opening the witness-stand to the very parties themselves. So far has this measure of reform been carried, that the very bones of Fitzherbert, and Saunders, and Booth, and Rastal must have stirred in their graves as the sacreligious hand was laid upon one after another of the beauties and romances of real actions, and special pleading,—upon the "*Quibus*," and the "*Post*," the "*Ayel*," and the "*Besayil*," the "*Traverse*," and the "*giving color*," and their places supplied with English terms and English common sense.

Nor was this accomplished without many a sigh from the living old school conservatives of the day. When at last it was



seriously proposed to abolish "contingent remainders,"—the very poetry of legal abstractions—one of this class is said to have exclaimed "abolish contingent remainders! Why not repeal the law of gravitation?"

The quaint rubbish that had gathered around the body of the common law, in the progress of a thousand years, like the seaweed and barnacles that grow and cling to the bottom of a noble frigate, was scraped off by the hand of reform, till courts and the popular mind have begun to sympathize with each other in the new revelation, that the ends of justice had better be sought for, than its antiquated forms and machinery preserved.

When we consider what has been accomplished in England since 1828, when Lord Brougham made his first great speech upon the necessity of legal reform, we shall find that it has not been limited to matters of form and detail alone. It has pervaded the spirit of English Jurisprudence, embracing alike the interests of commerce and the arts, while it has moulded and fitted these to the prescriptive rights of birth, and the rents and burdens of the tenantry of the soil. It is a green and vigorous life springing out of and sustained by the firm old buttresses which were reared by Titan hands away back in the obscurity of ages.

Around the walls of that old Abbey—old almost as the Common Law itself—within whose aisles, the portrait statue of Lord Mansfield holds an honored place among monuments of kings and nobles, of statesmen, and poets, and heroes, the green and glossy ivy has twined itself into a shroud of living verdure. But there is a principle in its very growth that endangers the stout old fabric to which it clings. The fibres and tendrils of its roots search out every softening and decaying particle, every crack and scale in the stone-work of which it is composed, and with almost magic power loosen and eat out the very walls themselves, so silently, yet so irresistibly, that new materials are con-

stantly being supplied to preserve it from a slow but certain decay.

Such is the care and skill, the wisdom and foresight, which are perpetually demanded in an age of change, and a vigorous parasitical growth to preserve that venerable fabric of the Common Law, in which are found so many noble monuments of past ages, and such rich treasures of constitutional liberty and personal right.

It is a matter of State and even National pride, that while the mother country is striving to adapt her laws, in respect to personal rights, and her forms of attaining private justice, to the wants of her citizens, she has, perhaps unconsciously, copied so largely from the simple laws and customs of these, her off-shoot republics.

When, therefore, we turn to the records of our own commonwealth, during the same period to which I am limited, we may indulge something like a feeling of gratified self-love to see how little occasion there has been for anything like a radical reform here.

That we have seen changes it is true, but profound as is presumed to be the wisdom of our legislatures, it may, in the end, be discovered that even legislative change is not always improvement or reform.

And, if I might look abroad for illustration, I might venture to doubt the successful working of a system which makes the popular voice the criterion of judicial fitness for office.

It will be long, I fear, before we shall see a Kent, or a Livingston, or a Spencer, rising out of that bubbling cauldron whose ingredients are to be supplied from time to time by the popular passions of Whigs or Republicans, of Hard-shells and Soft-shells, of Know-nothings and Know-somethings, as they one after the other snatch at the spoils that feed their patriotism.

But without anticipating what are to be the fruits of reform

here, let me pay at least this tribute to the present and the past.

For many years the business associations of my life have been with the courts of Massachusetts. That feeling of respect, almost of awe, with which I first looked upon the venerable men who then graced these seats of justice, has hardly lost the freshness of association by familiarity.

Of the changes that have taken place in the incumbents of the highest of these, it may not be delicate for me to speak individually on this occasion. But while I speak of the past, in paying a humble, but just, tribute to the courts of our own Commonwealth, I might extend my remarks to other courts, State as well as National, whose presence and learning I have been permitted to witness.

The feelings of veneration with which an American Lawyer first enters the courts of Westminster Hall, are partly traditional, and partly the result of the associations and circumstances by which he finds himself surrounded.

Those who have read, and who has not? the sketch of Warren Hastings, by Macaulay, will at once recall his magnificent description of the scene of the trial of his impeachment.

That glorious old Hall, built by William Rufus, the scene of so many of the great events in English History, two hundred and seventy feet in length, and ninety in height, without a column or pillar, or anything to break the effect of its imposing gothic proportions, serves as a vestibule to the respective apartments, in which these courts are held.

But for the mind, already excited by the recollection of events connected with the history of the hall, through which he has just passed, there is nothing to awaken an emotion in the style or magnitude or decorations of the pent-up quarters into which these courts are crowded.

He is, however, anything but to be envied, who can stand in the conscious presence where Coke, and Hale, and Mansfield,

and Ellenborough have sat in judgment, and Dunning, and Wedderburn, and Erskine, and Follet have pleaded, without feeling awed by the very genius of the place.

Pardon the seeming egotism, if I say it was the first object I sought in that vast metropolis, and the spot to which I directed my daily walk, with feelings like those of a pilgrim at the shrine of his devotion.

I looked upon that array of Judges in their robes of office, and I heard them addressed as "Your Lordships" by titled Barristers, and Crown officers among the leading men in Parliament, with a profound respect that was not all assumed. I saw members of these courts presiding over trials at *Nisi Prius*, in causes which enlisted some of the first talent in the land. And I felt more than I could utter, as I stood within those precincts, where the associations of the past mingled with the emotions which novelty and the imposing dignity of the scene could not fail to awaken.

But when I came to analyze this spectacle, to lay aside for a moment the adventitious decorations and historic associations—to regard only the men of whom the Bench was composed, grave, learned and reverend as they were, and to listen to their occasional remarks, and their more elaborate opinions, it seemed to me, that for true dignity, high judicial bearing, quick apprehension, patient attention, and seeming impartiality, we need not go to Westminster Hall for better models than we may find at home.

Without undertaking to compare the present condition of the Bar of Massachusetts, with what it once was, it is safe to affirm that a system of educational training, of practice and of professional intercourse and deportment, which reared and fitted the men who have honored these seats of Justice, should be approached with some distrust, at least, by him who should seek to revolutionize or reform it.

And yet, the attempt to do this has been ruthlessly made

more than once, within the recollection of some of us, and a radical change has been thereby wrought in the constitution and preparation for the Bar. Instead of the period of three or five years novitiate, which was once required before entering the outer courts of the sanctuary of the profession, and tarrying in that middle ground, between hope and fruition, for two years, and yet another two years before donning the robes, and title, and privileges of a "Counsellor," he now starts "from the rough," and in two short years, by the polishing process of what goes by the name of an "examination," comes out the fit companion and associate of the very sages of the law.

And what must strike the uninitiated as something like a solecism, the more books there are to read, the less is the time necessary for the task. The more the relations of business and society become multiplied and complicated, the more quickly are they mastered, and the higher the demands for scholarship, learning and mental discipline in the profession, the less the occasion to acquire either, before entering it, and claiming its honors and its rewards.

We witness as the fruits of one branch of this reform, the scattered and uncared for county libraries of which the excise, cheerfully contributed by the older members of the Bar, had laid a creditable foundation. But I leave the memory of such a reformer to the blessings of him, who, after seeking in vain in the place where it should be, the volume, always the missing one, which he most needs, plods back to his office and recalls the cause of his disappointment and his fruitless search.

And yet, there have been changes during this period in some of the details of our legal system, which many were disposed to regard as veritable reforms. All of us have read of the beauties and charms of special pleading, which drew forth from my Lord Coke, among others, such high and frequent eulogiums. With him, words were, literally, things, and "placitium a placendo,"—

to plead well and to please well, were, in his mind, an obvious synonym.

But to a layman who has never mastered this refined system of the keenest logic, I fear it would be useless, if I were able, to describe its beauty and its symmetry, or to show the use of pleas, and rejoinders, and surrejoinders, and rebutters, and traverses, and demurrers, which the skilful players in the legal game of chess, play out like pawns on the chess-board, before they bring forward the pieces by which they are eventually to win.

When I think of the power of old associations, and remember that our meeting is not limited to those of our own number, I know not how far it is safe to confess the part which this Bar took in the blow that struck down that ancient system. A report prepared by their direction, upon the subject, is still extant, which found its way into the newspapers of the day, and was nearly coincident with the act of the legislature of 1836, which declared that "in every civil action hereafter to be tried—all matters of law or fact, in defence of such action, may be given in evidence under the general issue, and no other plea in bar shall be pleaded."

But whatever were the motives for such a reform, whether because its advocates knew too much or too little, to stand by a system which had engaged the keenest minds and sharpest intellects at the English Bar, it had, at least, the apology of being designed to simplify and render intelligible the proceedings of our courts, and to do something to save, if possible, a sacrifice of justice to the mysteries of technicality.

But it is true, that even after this, the language of law papers was not reduced to the homely vernacular of the nursery or the workshop, and a man was, sometimes, shocked to learn that he had been guilty of "trover and conversion" in claiming property that he owned, or to see some hasty expression of contempt for a blackguard, spread out into a volume by colloquia and innuen-

dos, and exaggerated expletives, under the verbiage of which, the charge itself, like Falstaff in the buck basket, was well nigh smothered by the foul and offensive coverings beneath which it was brought into court.

But, after all, these were harmless excrescences upon a system which had become venerable by age, and respectable by the ends at which it aimed, and the results which it ordinarily attained. And when, therefore, it was proposed to efface old lines, and simplify what in the nature of things must be more or less complex, by merely giving it a new name, there were those who innocently doubted whether there was much of progress in such a reform.

There are those who, even now, can no more readily discern the subject of a suitor's complaint, because he is told it is a "tort," than if it had been spoken of as "Trespass," or "Case," in the brief, terse, customary language in which, until lately, the Plaintiff told the tale of the wrongs for which he sought redress.

One of the prominent events in the legal history of Massachusetts during the period of which I am speaking, was the revision of her statutes.

The arduous and responsible duty of rendering a mass of intricate and often conflicting legislation simple and intelligible, was confided to a commission whose character and capacity were a guaranty that the work should be faithfully and ably done.

But thoroughly, and as was fondly believed, completely, as this revision was accomplished, the love of change, and spirit of innovation, prompted by the new and growing wants of a community with such varied interests, had swelled to a volume of near a thousand pages, and demanded a new revision, even while one of the former commissions yet survived. That work is in able hands,\* and if it shall be accomplished as successfully as the

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\* The commission consists of Hon. Judge Parker, of the Dane Law School, Hon. Mr. Richmond, of Adams, and Hon. Judge Richardson, of Lowell.

one which it is to supersede, posterity will owe a debt of gratitude to their labors, like that which it has paid to the memory of those who preceded them in that important field.

The last of that number has just gone down to an honored grave in a ripe old age, bearing with him the veneration and respect of an entire community.

The place upon the bench has long since been filled which he graced and honored in the vigor of his manhood, and the world will go on as if he had never taken a prominent part in its affairs. But in giving an outline of the legal and judicial history of Massachusetts for the last quarter of a century, the record would be incomplete that did not present, prominently, among those whose character and labors as jurists have distinguished it, the name of CHARLES JACKSON.

The truest annals, perhaps, of the progress of the law are to be found in the reported decisions of our courts.

So far as our own Commonwealth is concerned, though one of the earliest to make provision for their publication, the work is of a comparatively recent date.

The earliest volume of our reports contains the decisions of the year 1804. Sixty-two more volumes have been published since that time, thirty-five of which have been given to the public within the period of which I am speaking, and materials for other volumes are nearly or quite ready for the press.

Of the extent, variety and accuracy of the learning they contain, the vast amount of labor and untiring industry they evince, and of the research and scope of thought necessary to their production, I need not, even if I had time, speak at large before such an audience.

If the legislation of a State furnishes one of the best means of studying its political history, the reported decisions of its courts serve as, perhaps, a scarcely less accurate criterion of the slow, inpalpable, yet certain progress which its unwritten law is



making, to keep pace with the sentiments, and wants, and character of its people. Principles which at one period are little more than hinted at, or shadowed forth with hesitation by its judges, become, in time, elementary in their character, and their soundness no one presumes to question.

These may not partake of the fluctuation of public sentiment, but I greatly mistake, or we shall perceive as we glance at the contents of these successive volumes, that there are classes of topics prevalent at one time, which nearly subside at others, and that great issues which engage the public attention at one period, are scarcely heard of at another.

That these currents in the popular mind should influence, often unconsciously, the judicial mind of the State, is but saying what so many believe, that those who are to act as interpreters of the law, should take part in the actual administration of it. Shut up the wisest man in a cloister, and surround him only with the records of the past, and let no whisper of what is passing in the great world around him, reach his ear, and though you make him as learned and impartial as Justice herself, you make him at best but a monk in ermine.

It has seemed to me that there was something like a public pulse in the law, which accurate observers, situated as our courts are, often feel without knowing how its movements reach their consciousness, and if it acts upon courts in modifying old dogmas, or infusing new elements of life into the body of our jurisprudence, it is, in its turn, acted upon by the direction it receives from the calm judgment, the trained sagacity, and authoritative opinions of their Judges.

In view, therefore, of what we have read of the changes through which our law is passing, while many a rough, ugly excrescence has been removed, that marred its symmetry and beauty, we find new blood infused into its system, and new vigor vitalizing its action.

There are one or two legislative reforms, which I ought not to pass over in silence.

Much as I idolize the *stability* and *consistency* of popular favor, I am obliged to confess, in regard to one of these reforms, that from early prejudice, or other infirmity of judgment, I have at times supposed that the Judges of our Supreme Courts, taken collectively, were better able to determine the constitutionality of a law, than a man drawn for the first time from the farm or the shop, to serve on the panel of a Common Pleas Jury.

But as our law makers of 1855 thought otherwise, I am bound to yield this traditionary impression to their superior wisdom, and set it down to the progress of the last quarter of a century, unless the example of one branch of the present legislature should tend to restore some of the old-fashioned notions of our fathers.

As we cast our eyes along the history of our race, it is refreshing to see the part which chivalry has taken in improving the social and moral condition of mankind.

Fortunately, the spirit is not dead, and most fortunately it still delights in tilting its lance in the cause of the oppressed of the fairer, I hardly dare say, weaker sex.

And that, too, has been at work even in the field of legal reform. We all remember what a cry, as of captive maidens, and enslaved matrons, went up from convention after convention a few years since. It could not fail to arouse the spirit of chivalry, sometimes dormant but never dead.

It was found that the age had got in advance of such old times as "*Femes covert*," "*Marital rights*," and the like. So far as the sexes were concerned, "*Duties*" became a noun of masculine gender alone; while "*Rights*" put on the feminine garb, or at least, the "bloomer" part of it, to be seen and read of all men.

And nobly and effectually was the work accomplished. It has

relieved young men from temptation, and many a poor lawyer who might have sold himself for a certain price, payable in lands and stocks, will be put upon his guard in making heart investments hereafter.

It may be no serious obstacle in the way of love and romance; but when he remembers that all a woman hath, at the time of her marriage, remains "her sole and separate property," "not subject to the disposal of her husband," and what is better, not "liable for his debts," he may, like a class of modern politicians, be led to calculate the "value of the union."

But the chief glory of this chivalrous measure consists in the singleness into which marital rights have resolved themselves.

That old-fashioned community of interests, a community of pursuits, which made it a kind of pleasant copartnership to earn together a little competency, for what even now is common property—their children—has become obsolete by law.

Now the married woman, happily relieved from any occasion of being another's helpmeet, "may carry on," in the language of the Statute, "any trade or business, and perform any labors or services, on her own *sole* account," and her earnings shall be "her sole and separate property."\*

This is the last chapter in the history of legal reform. What is to be the next, I must leave for my successor to record.

But if, in its progress, we are to listen upon the Sabbath to the devotions of some St. Agnes, or, upon a week-day, to the learning and eloquence of a Portia at the Bar, or a Novella of Bologna in the Law Lecture Room, or see sickness robbed of half its pain and most of its terror, by the dulcet tones and delicate little doses with which beauty shall battle with disease, those who may stand, at the end of another quarter of a century, where we do now, may, as they look back upon our unfortunate condition, borrow the measure of one of England's poets, if they

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\* Stat. 1855, c. 304.

do not his language, when they exclaim, as they doubtless then will,—

“Law’s thorny field was but a tangled wild,  
Till woman tilled it, when it bloomed and smiled.”

When I turn to the recollections of the last twenty-five years which are awakened by the history of our own Bar, and our own County, while there is much over which to rejoice, there is not a little over which an old man may almost be justified in dropping a tear.

Shall I speak of the social changes in the habits and intercourse of the Bar, which have grown up within that period?

I know I am entering upon perilous ground. To doubt that we live in an age of progress, to hint that railroads and telegraphs are not of unmingled and unmeasured good to man, or to dare to think, much more to say, that the present does not outstrip the past in everything that goes to make up life, will sound, I am aware, like the very key note of “Fogysim” itself.

But there are a few, sorry am I they are so few, who can go back with me to our courts, our “court weeks,” and our Bar gatherings, before the period of which I am speaking.

What a contrast with the present! “Court week” was then literally what it was called, instead of reaching in one continued session as now, from the earliest harvest home, round to the latest planting season, and the forty-one days of term time of the C. C. Pleas in 1831, grown to one hundred and forty-two in 1854. And those who came to court, did so to some good purpose. It was for the business and relaxation of a week, instead of whisking in upon a rail in the morning, to look at the list on the Clerk’s desk, like the numbers in the managers’ report of an old-fashioned lottery-drawing, and to guess how many weeks it will be before he must go through the same interesting process again, and then home by the next train before nightfall.

Oh the “dies fasti!” when, within the charmed circle of the

Bar, greetings were exchanged, groups were gathered, and dignity unbent. But it was the evenings, those "*noctes ambrosianæ*" of court weeks, alas! with those who enlivened them, now only among the things that are past—that told the strongest upon the life of the lawyer of that day.

Could the parlors of the two or three boarding-houses where they congregated, repeat the wit, and re-echo the laugh, and tell of the jokes and humor, in which even grave judges sometimes shared, after the duties of the day were over, we might, as they did, gather up a store of pleasant memories to serve as bright new coinage for the small change of social life and convivial intercourse.

And why should I speak, unless it is to sigh over them, of those other social gatherings, where the Muse oftentimes sat down with us at the festive board, and the best of fellows, the best of lawyers, and some of them, afterwards, the best of judges, poured forth the best of poems and the best of jokes into the ears of the best and kindest of critics?

Those days are indeed gone by—"Qualis eram non sum." And though I would not go back to the days of the old stage-coaches, and the one-horse wagon, as the means of reaching justice, or throw a scruple's weight in the way of Temperance, I have sometimes thought it could do no harm if we should, sometimes, come together as if we were really social beings, and indulge, if no further, in listening to the traditions of days when at the firesides of Mrs. Blake and Miss Stearns, and around Stockwell's well spread table, there was sparkling of wit and the outgushing of warm hearts and cheerful spirits.

Pardon this local allusion, and set it down to the garrulity of a busy memory, teeming with the little incidents of which so much of humble life is made up.

As I recall the history of the last twenty-five years of this

County, I cannot forbear alluding to the condition of our County buildings.

The ugly old stone prison that stood hard by here, has disappeared. The inadequate accommodations furnished by the court-house then and still standing, for the rapidly increasing business and population of the County, have been amply supplied by the structure in which we are assembled. It is alike a monument to the taste, forecast, and the independence of a Board, who, though dependent upon a popular vote for their election, did not hesitate to obey the call of duty.

They acted for the County as it was, as it is, and—may we not hope—as it *will be*, for a century to come, the prosperous, thriving, independent, *united* community, which no true son of hers ever blushed to call his home, or failed to feel that her fame and her honor were a part of his own best heritage.

As we revert, again, to the record of our Courts, we find at the commencement of the period to which I am limited, four Judges upon the Bench of the Supreme Court.\*

One only of that number—“*serus in coelum redeat*”—now remains at his post of duty. Two sleep among the honored dead. PUTNAM, the able commercial lawyer and upright judge, the courteous gentleman, and the companion of ever ready and kindly sympathies, after a retirement from the bench of several years, was the first to pass away.

The last year has witnessed the departure of the other, † so long and so worthily associated with the first.

A few months since, I found him, of an evening, sitting in his study, and with an eye undimmed by age, reading Plato, to ascertain, as he said, what advances had been made in modern times in the science of morals and politics, and how much the world was indebted for its present condition, to the revelations of the Christian Religion. And as I thought of him as the pro-

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\* Vide Appendix, A. † Judge Wilde, died June 22, 1855; Vide Appendix, A.

found lawyer to whose eye even the subtlest pages of the black-letter folio were luminous and clear, and sat and listened to his cheerful, earnest conversation, in which the simple dignity of profound thought was mingled with the pleasant recollections of the past, and the hopeful anticipations of the future, I could not but envy the man who had brought, out of the conflicts of so long a life, so rich a treasure of duties, consciously performed, of esteem and affection so worthily won, and of reputation for purity and uprightness of heart, and singleness of purpose, so universally accorded to him as a judge, which gave grace and dignity to his profound learning and impartial judgment.

Within the period spoken of, nine others have been called to fill places upon that Bench, one only of whom has gone to his reward.\* And long may it be ere delicacy towards the living, shall no longer restrain the utterance of what feeling might otherwise dictate.

Of the four judges of the then Court of Common Pleas,† three have gone to join the generation that preceded them. Chief Justice WARD was known to us only by the reputation for learning and integrity which he had acquired in other parts of the Commonwealth.‡

Judge STRONG was one of our own number.§ A few of us remember him before he had been elevated to that place, when he honorably filled a seat in Congress, and was called thence to a vacancy upon the Bench.

With a good legal mind, and respectable attainments in his profession, he brought much experience in the practical affairs of

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\* Judge Hubbard died Dec. 24, 1847, at the age of 62. † Vide Appendix, B. ‡ Ch. J. Ward held the office from 1821 till 1841; he died October 7, 1847, at the age of 84. § Judge Strong was a native of Amherst, and the son of Hon. Simeon Strong, Judge of the Supreme Court. He was graduated at Williams College in 1798. He was admitted to the Bar in 1803, and commenced business in Athol, and after remaining there about three years removed to Westminster. From 1812 to 1814 he was a member of the Senate, and again in 1844. In 1818 he was appointed Judge of C. C. Pleas, and retained the office till 1843. He removed to Leominster after his appointment to the Bench, and resided there till his death in 1850, at the age of 70.

life, to the business of the Court, and did much to elevate and sustain its character. He won the confidence of all, by his uprightness as a judge, and the diligence and fidelity with which he performed his duties. He retired from the Bench while his powers were unbroken, but found the evening of his days clouded by infirmity and disease, with which he struggled without complaint, and bore up against them with the dignity and cheerfulness of a good man.

The last of the three has passed away from the shades of retirement, within which he had lived for many years, within the last few months.\*

Though wanting many of the qualities of a perfect judge, there never was a more upright and honest man, or a more sincere lover of truth and justice, than he. What he lacked was due to his temperament alone. Every one felt that his instincts were all right, and that his judgment was guided by an honest purpose and high attainments in learning.

Never suspecting fraud in his own guileless nature, no one could be a more uncompromising foe to trick or chicanery when once detected. The sod does not rest on a kinder heart than that which once animated the manly form of Judge CUMMINGS.

Of the others who have been members of this Court within our period, I have not time to speak, though three of their number have been added to the starred names that are so rapidly swelling the catalogue of the eminent men that have departed from our midst.† And the last mail brings the sad intelligence of another vacant seat and another stricken household. Sudden, fearfully sudden, has been the blow that has stricken down one

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\* Hon. Judge Cummings, who died March 30, 1855, aged 69. † Ch. J. Wells died June 23, 1854, aged 63. Judge Ward died May 29, 1848, aged 39. Judge Colby died Feb. 22, 1853, aged 44. He was Dist.-Atty. of the Southern District after his resignation of the place of Judge. Judge Byington had accepted our invitation and was expecting to be present on the occasion of this address, when he was suddenly stricken down by disease.



whom we had fondly hoped to meet here this evening, and turned our joy into sadness. Greater and more brilliant men may have fallen, but a truer heart, a more upright judge, or a man of more honorable feelings or guileless life, is not left to commemorate or record the virtues of the dead.

The Court has, from various causes, been prolific in names. Twenty-two different Judges have held seats upon that Bench within the last twenty-five years. One of these causes, happily is, in part at least, removed.

As I contemplate the fact, that more than a thousand million of dollars of the wealth of the citizens of this Commonwealth, owes no little of its security and value to a wise and impartial administration of her laws, I think, with anything but feelings of pride, of that penny-wise policy which has, at times, ground down her judges to rates of compensation below what some of her private corporations pay for looking after the running of their rail cars, or the speed of their spinning-jennies.

The Attorney and Solicitor General of twenty-five years ago,\* have passed away. Eminent in their day, they were long in office, and formed a connecting link between the class of lawyers who entered the Bar soon after the revolution, and our own times. Belonging to no particular locality, their history, their services, and their reputation, are rather the property of the whole Commonwealth, than the subjects of extended notice while treating of a single County.

Of the Judges of Probate, four have held office within our prescribed period.† With the presence of three of that number we are favored this evening, including him who presides over its proceedings.

The other‡ long stood as a kind of connecting link between

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\* Hon. Perez Morton, Attorney-General, and Hon. Daniel Davis, Solicitor-General. Mr. Morton was Attorney-General from 1810 to 1832. He died Oct. 14, 1837, at the age of 87, in Dorchester. † Vide Appendix, C. ‡ Judge Paine.

the modern bar and the ante-revolutionary days, many of whose actors he had personally known.

After having held the place of County Attorney, he presided for more than an entire generation, with great approbation, over the duties of a Court which requires learning, patience, diligence, and a ready sympathy, and in 1840, at the ripe age of eighty-two, nearly sixty years from his admission to the bar, his name, like an old familiar land-mark, ceased to hold its accustomed place at the head of the lawyers of the then town of Worcester.

Four, during that period, have held the place of District or County Attorney, and another has recently been added to the list.\* Of these, including the last, four belonged to the Bar of this County.

Of one of these it may not be improper for one who learned by experience to appreciate his efforts in that office, to say that it was sometimes difficult for an antagonist to determine whether he was the most effectually subdued by his adroitness or his courtesy.

Another, though in brief possession of the office, I am unwilling to pass over in silence, though he was scarcely known beyond the limits of this Bar.†

He came into the profession mature in years, and strong in native powers, but already the doomed victim of disease. He struggled with manly resolution and unshrinking fortitude, against a malady that would have crushed the hopes and spirits of an inferior nature, and won for himself, as a public officer, an approbation and respect which harmonized with the esteem in which he was held as a companion and a friend.

His fate was but a new illustration of the bright mark at which death loves to aim his fatal shaft.

Passing from this office to that of the principal Clerk of the

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\* Vide Appendix, D. † B. F. Newton.

Courts, we find that four have been incumbents of the place.\* Here, too, I may not properly speak of but one of that number.

But in recalling the name of KENDALL, the modest worth, the amiable virtues, the scholarly tastes, and the unblemished purity which characterized his life, at once rise before the mind.

He had been a well-read lawyer, though little fitted, by taste, for the rougher passages of the profession.

In Congress he belonged to a school of politicians—God grant it may not become quite obsolete!—who, if they spoke, said what they meant, and voted for the right because it was the right.

He had doubtless been a greater man, and more eminent in his profession, had he felt the goadings of poverty, or the calls upon a husband, or a father's instincts for exertion. But the world has little to forgive when it comes to take the account of his life, and sees the preponderance of the good he accomplished.

Four have successively had in charge the executive duties of the County, in the office of Sheriff,† and though two only of these were originally of the Bar, their connection with the Courts calls for a passing notice.

One only of these can be alluded to on this occasion. Of sound judgment, great practical knowledge, unbending integrity, and with a heart kind as that of a woman, he knew nothing like fear, and went right on, wherever the path of duty led. He knew neither friend nor foe, in his judgment of what was just, and when, to accomplish some party arrangement, it became necessary to sacrifice a model officer, he retired with dignity to private life, where he needed no extrinsic influence to command respect, and there and thus he died.

To speak of the Bar individually, would obviously exceed the limits of my time or your indulgence.

I find upon the List of Counsellors in 1830, the names of

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\* Hon. Abijah Bigelow, Hon. Joseph G. Kendall; Charles W. Hartshorn and Joseph Mason, Esquires. † Vide Appendix, E.

fifty-six; of Attorneys at the Supreme Court, sixteen; and of Attorneys at the C. C. Pleas the names of fourteen; making eighty-six in the whole. These were scattered in unequal numbers through thirty-five of the then fifty four towns in the County.

Of that number, forty-five have died. Eighteen who are now living, have left the County, others have retired from professional life, till ten only now remain in practice at the Bar.

Within the period mentioned, from one hundred and forty to one hundred and fifty have been, at different times, or now are, members of the Bar, in addition to the eighty-six first mentioned. About ninety-five of these still remain connected with the profession in the County. Sixteen of the towns in which lawyers were settled in 1830, no longer enjoy the light of such luminaries of their own. Death, or an exhausted treasury, has driven them from the former scenes of their struggles.

These few statistics show the rapid changes that are constantly taking place in the condition of our Bar. A professional life is proverbially brief, and a young aspirant for its honors, has hardly got through wishing Providence to provide for the seniors that stand between him and success, before he finds himself equally a subject of the prayers of his juniors, who crowd and jostle him in his course, before he has hardly had time to measure his own speed.

For this, or some other reason, the prizes that are won, are few compared with the whole number that enter the arena to compete for them.

When we read of the receipts of some of the eminent English Barristers, or of some of the Bar of our own country, we make a false estimate of the true amount of success that is achieved by the profession at large.

Forced by the position in which they are placed, to assume the

externals of competency, the public at large are little aware how often this gives a false impression as to professional success.

I am not disposed to complain, nor do I believe our own Bar has not been, when compared with others, reasonably successful and prosperous. But the statistics of the Probate Office tell rather a sad tale.

Of the estates of forty-five of the lawyers of the County living in 1830, nine had no inventories returned, though these embraced some who had been the most successful. Twelve were either never settled at all, or settled in some other jurisdiction. Twenty had inventories or accounts rendered, only one of which exceeded fifty thousand dollars, and a very small portion only, if any, of that was the fruits of professional labor. Nine who had property, amounted to less than five thousand dollars each, and four of them averaged less than seventy-six dollars each, while six of the estates were insolvent, as shown by the record, and there is good reason to know that of the twelve estates not settled here, at least seven were insolvent; making more than one in four of the whole forty-five estates, that were altogether insolvent.

It is certainly with very little pleasure that I refer to these results, and it is with far more grateful feelings that I turn to what the Bar of Worcester County has achieved in the way of reputation.

I will not, however, in so doing, refer to the suggestions of my own partial judgment, but appeal to the recorded opinions of others, in the fact, that of those who are or have been living within the period of which I am speaking, three have held the place of Chief Magistrate, three that of Judge of the Supreme Court, and that a place upon that Bench was tendered to two others of the number.\* Four have been Judges of the C. C. Pleas. One for many years a Senator, and ten have been mem-

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\* Hon. John Davis and Hon. Charles Allen.

bers of the House of Representatives in Congress, and one has been a Foreign Minister of the United States.†

Happy should I be, to speak in detail of most of those who once filled these places. As I run my eye along the catalogue of their names, their forms rise in fancy before me, and they seem to stand among us again, each in his own marked and well-remembered traits of person and character.

The HASTINGS—father and sons.—The first, without the graces of oratory, was for many years a formidable antagonist before a Jury, and before the Court exerted an influence by his very respectable acquirements as a lawyer, and his ability as a reasoner.

The eldest of the sons was perhaps a better lawyer. He possessed much ready wit, was a man of honorable and agreeable qualities, and died in the midst of his usefulness and public honors, ere age had saddened life with its bitter experiences.

TUFTS—the man whom his friends knew better than the world did, and saw struggling, under the stimulus of an honorable ambition, to gain for himself a rank in his profession, while lurking disease was wasting the powers of his body, and consigning him to an early grave.

He lived long enough to enjoy a share of the public honors of the day, and won the public confidence, as he had done the esteem and affection of his associates.

JAMES—then of Barre, venerable in years, courteous in his bearing, modest and reserved in his temperament, passing through a long life without spot or blemish upon his modest fame.

GOODWIN—whose antiquarian and scholarly taste was but partially reconciled to the drudgery of the profession he had adopted.

FOSTER—the high-souled, pure-hearted scholar and gentleman, whose chief fault was an undue self-distrust of powers of a high

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† Hon. George Folsom, Minister at the Hague from 1849 to 1853.

order, and unfortunately for the full development of which, he was above that necessity which is the stern schoolmaster of so many in that profession which he early abandoned.

BROOKS—who for many years held a leading rank among the lawyers of this and a neighboring county, with a mind of great acuteness, well stored with legal principles, and whose earnestness and fidelity in the cause of his client was acknowledged by all who witnessed his efforts before the Jury or the Court.

TAFT—who, though bred to the profession, was able to indulge a taste for rural pleasures and pursuits, and escape the drudgery of the law, but was always a genial companion at the Bar, and was often honored by the expression of public confidence, by being called to offices of trust and honor.

Nor would I pass over in silence the name of STEBBINS. He made no mark in his profession by his eloquence or learning, but he honored it by his incorruptible integrity, and though he laid aside its duties for a more congenial employment, he retained through life that high estimation of a true lawyer's character, which he had illustrated during the few years he was connected with it.

And there are names which start up spontaneously, at the very mention of a social hour.

LINCOLN—the lawyer, profound and learned for his years, the diligent student, with his ever ready fancy and playful wit, the genial companion, and the man of taste and letters. If he ever did injustice to himself, he never was false to his faith, or disloyal to his friendship.

BALDWIN—whose sad and early fate was the only thing that ever brought pain in the associations which his name awakens. Wedded to a profession for which he had no sympathy, his happiest day was when he bade it adieu for a position far more congenial to his taste. His like we shall never look upon again. His better qualities were best known to those who knew him

best, since that never-failing flow of humor and good feeling which he always displayed, almost obscured, at times, the varied learning which he really possessed.

But long ere this, another familiar form must have arisen in fancy before your vision.\* For forty years he filled a place at the Bar, and saw one generation after another pass away in its rapid changes. His was a store of abstract legal principles, gathered by years of patient diligence in study, and his processes of reasoning, formed upon the models of the school men, made him a formidable antagonist, where industry in preparation, and the application of keen logic, could be brought to the encounter.

We miss him in our daily walks, we miss him at our social gatherings, and the last of his old associates will have passed away before the image of his striking figure shall cease, as fancy peoples the scene, to come and linger around a spot with whose duties so much of his long life was connected.

One other who had held the place of County Attorney, and at the commencement of the period of which I am speaking, was filling the responsible post of Secretary of the Commonwealth, since that time, came back to enjoy a few years of retirement, and then to follow where so many of his companions and associates have gone before him.†

The field of literature was always more congenial to his taste than the agitations and excitements of the profession, and neither his health nor his taste allowed of his again engaging in these, after giving up public life, and few of those who now fill these seats, know, from personal observation, how to measure his talents or his worth.

But I am admonished that if ever anything like a sketch of the members of this Bar, who, within the last twenty-five years

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\* Samuel M. Burnside, Esq. † Hon. Edward D. Bangs was Secretary of State from 1824 to 1836. He died April 2, 1838. He was a son of Judge Bangs, of the C. C. P.



have laid off the harness of life's toils and duties, is to be given to the public, the present occasion is altogether too brief to admit of its being done here.

And yet I should fail to meet your demands, or those of my own feelings, if I passed over in silence the memory of one who so long honored and adorned this Bar.\*

This was not, however, the only sphere in which he achieved distinguished success. His fame was a National one. But I leave for others to do that justice to his character as a statesman, which, too often, comes only when the jealousies and rivalries of party have been buried in the grave.

Of his characteristics in his professional career, I could dwell upon what a connection in business and a long personal association impressed upon my mind.

If he was not what may be called a technical lawyer, learned in the books, he had that sound judgment, clear apprehension, and almost infallible common sense, that enabled him to detect and apply the principle which was to guide in the decision of a question, however intricate, and to trace analogies and perceive distinctions, often subtle, the want of which so often misleads the most learned lawyer; and having settled in the elaboration of his own mind, what the law, in any case submitted to him, should be, he was generally able, by diligent research, to bring to the support of his own conclusion, authority to sustain the position he sought to maintain.

I do not believe any court ever listened to an argument from him, without being enlightened, if not convinced. It was not the flippant citation of cases from digests, but the clear, simple statement of sound philosophy, mingled with a respectable and creditable amount of learning, judiciously and aptly applied.

Such a mind would have been invaluable upon the Bench, but a well founded apprehension of a want of physical ability to

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\* Hon. John Davis.

sustain its burdens, deterred him from entertaining a proposition to accept the place. Of his efforts before a Jury, I hardly need to speak, where they have been so often witnessed.

There was an earnestness, an apparent candor and sincerity in his manner, a clearness of statement, a singleness of purpose, that never sacrificed the success of a cause to the graces or display of oratory, and, withal, a complete command of all the bearings of his case, that enabled him to carry it forward with a power which no opposing counsel ever failed to appreciate and respect, if he did not fear.

As a wise counsellor, an agreeable and entertaining companion, whose conversation always instructed, and whose playful kindness always delighted, no man ever went through the tangled wilderness of political and professional life, and left more for friendship to remember, and less to forget, than he, whose almost speaking countenance, in marble, greets us in our solitary walks in yonder cemetery.

I have spoken of the past, but what am I to say of the future of this Bar and their profession.

Of those whose names now swell its numbers, how few will be left at the end of another quarter of a century, to recall those of us who take part in the festivities of this evening.

As I contemplate the past, and address myself to those who are hereafter to occupy this Bench and fill these seats, I cannot better express the deep sensibility which the thought awakens, than borrowing the language of that comprehensive prayer, "*Sicut patribus, sic vobis.*"

We have seen enough of change in our own day, to read change and progress in the shadowy history of the future.

In the growing and multiplying relations of business and social life, new questions of interest and moment will, doubtless, arise, in the determination of which the same process of keen analysis, broad speculation, and far-reaching foresight, must be

brought into exercise, by which the questions of this and a former generation have been mastered, and the imperishable fabric of the common law built up.

To prepare men for a work like this, requires an education and a training which can only be acquired in the school of the Bar.

Little does the world at large know of the part which an able and educated Bar plays in the business of self-government, in a free state.

It is not merely in giving form and direction to the legislation of such a state, but what affects more nearly the enjoyment of personal protection, and the security of personal rights, it puts the power of the law within the reach of every citizen.

There is a spirit of power and injustice warring upon unprotected weakness, now, as much as in the days of chivalry of old, though it may not manifest itself by such open deeds of oppression.

The arena, moreover, in which battle is to be made for the right, is no longer the listed field, but the Hall of Justice, where, though the champion be not indeed mailed in armor, as true faith, as fearless courage, and as devoted fidelity are demanded, as ever signalized a Richard or a Bayard.

And say what men may of the profession, there is in that assurance which everybody feels in having the arm of a fearless advocate to rest upon, that which half disarms oppression of its power, and gives to the feeblest the strength of a trained and disciplined champion.

In the facility, however, with which men now force their way into the profession, there is no little danger that there may be found those whose character may gradually undermine this public confidence in professional faith and honor.

In view of contingences like these, I can hardly exaggerate the importance of cultivating in the profession that feeling of self-respect, which shall preserve it from grovelling motives and

unworthy conduct. The science they profess is a noble one, and its investigation and pursuit demand the highest powers of well trained and honorable minds.

But I have already taxed your indulgence too severely, to dwell any longer upon the inseparable connection there is between the character of a people's laws and the growth, happiness and prosperity of a nation, and I hasten to close this imperfect presentation of our subject, in the language of another:—

“At what time Law commenced, we inquire not—whether its origin was in any respect supernatural or not, is of no moment at present, but certainly it was when human passions were seen tearing the weak and defenceless, when individual greed, individual lust, individual hate, and, most cruel and perilous of all, individual revenge, ranged like beasts of the forest amid a flock, that Law bared her beautiful brow, and bade them all cower beneath the eye of reason.”





Eng<sup>d</sup> by A.H. Ritchie

*Wm. A. Bevelton*

ADDRESS OF HON. DWIGHT FOSTER.





On the occasion of a Social Festival of the members of the Bar of the County of Worcester, on the third day of October, 1878, by their previous invitation, an address was delivered before them by the Hon. Dwight Foster, of Boston.

After the address, on the same day, at a meeting of the Bar, it was resolved by a unanimous vote, that the committee of arrangements communicate to Judge Foster the thanks of the Bar for his able, interesting and eloquent address, and request of him a copy for publication.

WORCESTER, *October 5, 1878.*

HON. DWIGHT FOSTER.

*Dear Sir:*—The Committee of Arrangements for the recent Festival of the Bar of the County of Worcester, in pursuance of a vote of the Bar, cordially tender to you their thanks for your able, interesting and eloquent Address, delivered on that occasion, and request a copy for publication.

Very truly yours,

JOSEPH MASON,  
W. S. B. HOPKINS,  
T. K. WARE,  
CHAS. G. STEVENS,  
T. G. KENT,  
A. J. BARTHOLOMEW,  
GEO. F. HOAR,  
GEO. F. VERRY,  
A. G. BULLOCK,  
G. H. BALL.

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BOSTON, *October 15, 1878.*

MESSRS. JOSEPH MASON,  
W. S. B. HOPKINS, and others.

*Gentlemen:*—In compliance with your request, I herewith place at your disposal the manuscript of my Address before the Bar of Worcester County.

I am,

Very truly yours,

DWIGHT FOSTER.

## ADDRESS

OF HON. DWIGHT FOSTER.

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TWICE heretofore the Bar of this County have called upon one of their number to pronounce before them an address of a somewhat historical nature. Nearly fifty years ago, October 2, 1829, Joseph Willard, then of Lancaster, afterwards for many years Clerk of the Courts in Boston, in an elegant and scholarly discourse brought down the history of this Bar to a period of half a century subsequent to the adoption of the Constitution of the Commonwealth, and preserved in a permanent form such reminiscences of the Colonial Court and Bar as were then extant.

Of all who were then members of the Bar but three now remain among the living,—Waldo Flint, Stephen Salisbury, and Isaac Davis.

Nearly twenty-five years later, February 7, 1856, another Worcester lawyer, one of the most distinguished and best beloved of our number, Emory Washburn, performed a similar task in the same faithful and acceptable manner as he fulfilled all the duties of life; and now, at your request, it devolves upon me to attempt something of the same kind, and to speak of the law and its progress, and this Bar and its changes, during the past twenty-five years.

And first I wish to point out briefly some of the principal changes in the law within that period.

In 1851, the Legislature enacted a code of civil procedure, commonly called the practice act, prepared by three eminent lawyers, Benjamin R. Curtis, afterwards a Judge of the Supreme

Court of the United States ; Reuben A. Chapman, afterwards a Justice and Chief Justice of the Supreme Judicial Court of Massachusetts ; and Nathaniel J. Lord, a distinguished member of the Essex Bar. This statute was, in 1852, considerably modified and improved. At first it hardly received fair treatment ; certainly it did not meet with cordial reception at the hands either of the Court or the Bar. But it has stood well the test of experience, and would now be generally acknowledged to have swept away many useless technicalities, to have made forms more simple and intelligible, presented the issues to be tried more distinctly, and to be a valuable measure of reform and improvement. No one would be willing to return, either to the original system of special pleadings, or to its modified form of pleading the general issue with specifications of defence.

In 1857, for the first time, full equity jurisdiction was conferred upon the Supreme Judicial Court. It is amazing to look back upon the condition of our law in this respect previous to that date. As early as 1685, and again in 1687 and 1692, attempts were made to establish Courts of Chancery in the Province, all of which failed in consequence of English opposition. Many special statutes had given limited equitable jurisdiction over particular classes of cases, their enactment being frequently secured to meet the exigencies of some individual case of hardship found to be irremediable at common law. But every attempt to confer general equity jurisdiction had been defeated, partly from a jealousy of allowing causes to be tried without the intervention of a jury, and partly because the ancient system of equity was so encumbered by technicalities ; its pleadings were so artificial and intricate, and its practice so dilatory and expensive, that the beauty and value of its enlightened principles, and the effectual relief of its flexible remedies were not appreciated or were deemed not valuable enough to compensate for such serious evils.

In one aspect it may be thought fortunate that Massachusetts equity came into existence at so late a period. If it had grown up in the days of Lord Eldon, it would probably have copied the defects of the ancient English Chancery. But this danger was averted, and the past twenty years have produced a Massachusetts system of equity which is, I venture to affirm, one of the simplest, most satisfactory, prompt, economical and scientific systems of remedial justice, to be found in any part of the civilized world. A very few years ago a learned jurist from another State observed to me, "we are not accustomed, you know, to look to Massachusetts for equity." I told him that if he would study the Equity Decisions in our reports since 1857, he would retract that criticism, and confess that our Court and Bar had not only availed themselves of the best equity doctrines established elsewhere, but that Massachusetts decisions and practice could furnish useful lessons, in simplicity of procedure, to the profession in other States.

In adverting to the progress of the science of jurisprudence, and to the improvements in the practical administration of justice during the period under survey, we may well point with pride and satisfaction to such results.

Whether a further change awaits us, and we are hereafter to abolish the distinction between law and equity, following the example of New York and England, it is now too early to predict. I cannot help feeling that theoretical arguments preponderate in favor of such a change. But so far as I can learn, the system under the New York code is less easy to learn and to practice, and requires much more writing than our own. The experiment inaugurated in England in 1874, will be watched here with care and interest. But let us hope no change of such importance will be made hastily.

Another great revolution has taken place relating to witnesses and evidence. The exclusion of witnesses on account of crime,

or interest, or for want of religious belief, has been done away with. Parties to suits are allowed, and may be compelled, to testify. The right to file interrogatories by each party to his adversary, has made rubbish of much learning as to discovery in equity. Trials have thus been shortened, and the facilities for arriving at the whole and exact truth have vastly increased.

This immense reform, now adopted almost everywhere among English-speaking people, is due to Jeremiah Bentham, one of those master minds, "who think the thoughts in one generation that revolutionize society in the next;" the Gamaliel at whose feet so many of the best men of England sat as disciples, who well deserves to be ranked among the great benefactors of mankind.

In one department, that of criminal procedure, I regret to feel that Massachusetts has not fully availed herself of the useful examples of England, Pennsylvania, and federal legislation. Something has been done, but much more might readily be accomplished, in the way of removing useless and absurd technicalities, and rendering the punishment of crime more prompt and certain. At the same time the inequality in sentences so frequently complained of might be diminished and defendants under proper restrictions to prevent the abuse of the privilege might be allowed to have witnesses on their behalf summoned at the expense of the Government. Lawyers have been unjustly and reproachfully called "the conservators of barbarous usages." But it is a debt that every lawyer owes to his profession, to endeavor as much as in him lies, to make the science and the practice of the law more enlightened, and to approximate them more and more to the ideal though never perfectly attainable standard of absolute justice and moral equity.

The relative position of the Bar to the general community is very different from what it was a generation ago. De Tocqueville visiting America about forty years since, spoke of the Bar

as the aristocracy of the United States. It has few claims to such a position now, though let us hope the days of the plutocracy or shoddy aristocracy, called into existence by an era of speculation and irredeemable paper currency, are numbered. But the ministers and the lawyers are far from being the best educated men at the present day. The wonderful progress of all the natural sciences, the high standard of education in the medical profession, the numbers of thoroughly trained young men annually becoming merchants, manufacturers, mechanics and journalists; even the educated men of wealth and leisure without special avocations, have placed the Bar upon an equality with the rest of the community, and if it would maintain its superiority it must do so by its intrinsic strength, and not by virtue of any extrinsic advantages attaching to the profession itself.

How is our profession likely to sustain itself under these altered circumstances? The facilities for a thorough legal education are much greater than a generation ago. Numerous textbooks of every grade of excellence, from those of the highest value down to mere worthlessness, good law libraries in most of the counties, promptly published reports of the highest general State and English courts, numerous law schools of respectability, all these great advantages have multiplied till the danger is not from the want of resources, but from the embarrassments arising from their excess.

The standard of proficiency required for admission to the Bar has been elevated.

Arguments addressed to courts are prepared with greater care and more elaborate examination of authorities than formerly. In Massachusetts especially, directness, compactness and tolerable brevity are the custom and the fashion. So far as I can judge, the average standard of excellence in legal arguments has never been higher than it is to-day; and there has never been a larger

proportion of well trained young lawyers, who know what honest and thorough work is, and whose aim and ambition are to gain business and win position by solid merits.

The disposition to encourage or even permit petty litigation is less than formerly. The manners of the Court and Bar towards each other have improved considerably. There is less disposition with judges to play the part of schoolmasters. They realize more than formerly, that courts are made for clients and counsel who represent them, and not clients and counsel for courts. The perfect urbanity that prevails in the highest federal tribunals is becoming fashionable before lower tribunals. No judge or lawyer visits the Supreme Court at Washington without learning a lesson in good breeding. The treatment of witnesses is more courteous, though here I confess remains much room for improvement. But in justice to our profession it should always be remembered, that in the heated and vitiated air of the court room, through the weary hours of long trials, such a strain is put upon the jaded faculties and worn-out nerves of both Bench and Bar, that no human equanimity can always maintain its equilibrium. If bad temper and rude manners are occasionally displayed by either, let us not forget these extenuations.

“What’s done we partly may compute  
But know not what’s resisted.”

It is time to close these discursive observations and to speak of the members of the Worcester Bar who have passed away since 1855. The list before me numbers thirty-six names, and very few there are among them, who can not be spoken of with sincere respect. Time will permit only a selection from the catalogue, and I must omit some with whom pleasant personal memories are associated, selecting a few of the more conspicuous of whom I shall speak in the order of their departure.

THOMAS KINNICUTT was born at Warren, R. I., November, 30, 1800, and graduated at Brown University in 1822. He studied



law at the Litchfield Law School, with Francis Baylies, of Taunton, and John Davis, and was admitted to this Bar in 1825. He represented the town of Worcester in the House of Representatives in 1835, and the county as Senator in 1838 and 1839. He was representative again and chosen Speaker in 1844, but was compelled by ill health to resign that position. In 1848 he succeeded Judge Thomas as Judge of Probate, and held that office till his death, January 22, 1858. Throughout his life he was constantly called to many local positions of trust and usefulness. A delicate physical and refined intellectual organization; fastidious tastes; gentle and charming manners; a tender and affectionate nature; purity of morals and of heart, such as well deserved the beatitude, were his leading characteristics. His health was never robust enough for the contentions of the forum. But he was a model Judge of Probate and earned the blessings of the widow and the orphan. His sudden and unexpected death from disease of the heart called forth such expressions of affectionate respect as this community has seldom manifested.

Two young members of the Bar, NELSON BARTHOLOMEW, of Oxford, and SAMUEL JAY WOODS, of Barre, gave their lives to the cause of their country very early in the war for the suppression of the rebellion. Each was at the beginning of a professional career, full of fair promise for success and usefulness. I name them not to do honor to their memories, but because of the honor that is reflected from their lives and deaths upon the Bar of which they were members.

GOLDSMITH F. BAILEY was born at Westminster, Vt., July 17, 1823; was educated as Benjamin Franklin was, in a printing office; afterwards became an editor in Greenfield and Fitchburg; studied law with William C. Bradley, in his native town, and also with Torrey and Wood, at Fitchburg. He was admitted to the Bar, and became a partner in the firm with which he had studied.

He was representative to the General Court in 1856, and Senator in 1857 and 1859. In November, 1860, he was elected to Congress, and died at Fitchburg, May 8th, 1862. For some years his physical strength had been gradually giving way under the inroads of a lingering consumption.

His intellectual powers, therefore, never had a fair chance of development; nevertheless, he made a strong impression at the Bar, and was regarded as possessed of fine abilities. My own acquaintance with him was sufficient to satisfy me, that if his life and health had been spared he would have become a distinguished man. And certainly his character and manners were singularly attractive. Few who have died so young have been so widely respected and beloved.

PLINY MERRICK was born in Brookfield, August 2, 1794, and graduated at Harvard College in 1814. He studied law in the office of Levi Lincoln, and was admitted to the Bar in 1817. He kept an office for a few months in Worcester, a few more in Charlton, then upwards of a year at Swanzey, in Bristol County, and then at Taunton till 1824; the last year as partner of Governor Morton; by these frequent changes curiously illustrating a fickleness and impatience of temperament which he could never completely restrain. Either just before, or directly after, his return to Worcester in 1824, he was appointed by Governor Eustis, County Prosecuting Attorney, and held that position till he was made District-Attorney for Worcester and Norfolk Counties, in 1832, by Governor Lincoln; this office he held till appointed Justice of the Court of Common Pleas in 1843; he resigned in 1848 to become President of the Worcester and Nashua Railroad. In 1850, he was re-appointed to the same court, and in 1853 he was transferred to the bench of the Supreme Judicial Court, where he remained until 1864, when he resigned on account of ill health. He died in Boston, January 29, 1867.

In social life, he was a most agreeable and fascinating companion, genial, bright, witty, versatile, the most impulsive and most governed by impulses of any able man I have ever known. At the Bar he was a very eloquent advocate and brilliant cross-examiner. My earliest recollections of a court-room are of trials in this building, where Pliny Merrick was on one side, and Charles Allen upon the other. It seems to me now, in the retrospect of more than thirty-five years, that I have never witnessed finer intellectual contests. Certainly each side displayed surpassing earnestness, zeal and eloquence, and the beauty of the spectacle was enhanced by the fact that the two combatants were so unlike each other in their weapons and style of attack and defence.

On the Bench he was generally a very satisfactory *nisi prius* judge, presiding with great courtesy, and admirably setting forth in his charges the rules of law involved in the case, the issues upon which the jury were to pass, and the material portions of the evidence. Indeed, the power of disentangling complicated facts, so as to bring order out of chaos, was one of his most remarkable accomplishments. I have never heard more luminous expositions of evidence than those in some of his charges, and in some of his published opinions. Occasionally his feelings in favor of one side, which he believed ought to prevail, carried him farther than is deemed right at the present day, and he would charge the jury with deadly precision. To a lawyer on the weak side of a case, it was an omen of evil if Judge Merrick was found to rule all doubtful points in his favor. For in such a case the closing charge usually left him with all the law he had prayed for, but not a ghost of a chance for a favorable verdict. However, I much prefer a judge who conducts a trial so as to make his influence felt upon a jury, to one who merely keeps order in the court-room, and rules on dry points of law when requested to do so, totally indifferent whether the verdict is right

or outrageously wrong. I want a presiding magistrate, and not a mere king log. The opinions of Judge Merrick during the ten years of his service on the court of last resort, are characterized by adequate learning in the common law, by great familiarity with the criminal law and Massachusetts statutes and practice; also by that marvellous facility in dealing with facts, already referred to. In point of style, their merit is of a high order. Paragraphs could be quoted from them which lay down important principles with unsurpassed completeness of statement and felicity of diction. Undoubtedly Judge Merrick's usefulness and power as a judge increased every year he was on the Bench, and his retirement, compelled by a stroke of paralysis, was a serious public loss. He met the blow with manly philosophy, and the last days of his life were resigned and cheerful.

IRA MOORE BARTON was born at Oxford, October 25, 1796, graduated at Brown University in 1819, was one of the first three graduates of the Harvard Law School in 1822, having also studied in the office of Levi Lincoln. From 1822 to 1834, he practised the profession at Oxford, representing that town in the Legislature three years, and being two years a Senator from this county. In 1834, he removed to Worcester, and in 1836 was appointed Judge of Probate, which office he held till 1844, when he resigned to resume general practice. He retired from the position of an advocate in 1849, but for many years continued to act as chamber counsel.

Judge Barton's fine personal presence is familiar to all by the noble portrait which hangs in the Law Library and does him no more than justice. He was a sound, sagacious counsellor and an imposing and impressive advocate. When the firm of Barton, Bacon & Barton was in the full tide of success its business was as extensive and important as any there has ever been in the county.

Judge Barton won the entire confidence of his clients and the

community, and was a very influential man in all the relations of life. His retirement, at the early age of 53, was caused by physical infirmities that cut him off from a longer career, which if pursued would have surely led to higher professional and political distinctions. He died July 18, 1867.

REJOICE NEWTON was born at Greenfield, Mass., October 18, 1782, graduated at Dartmouth College in 1807, was admitted to the Bar in Franklin County in 1810, immediately became the partner of Francis Blake,—whom tradition represents as the most brilliant advocate the Bar of Worcester County ever produced,—was appointed prosecuting attorney for the County in 1818, and held that place till 1824, represented Worcester in the legislature in 1829, 1830 and 1831, and was State Senator from the County in 1834. He was a sound lawyer, a wise counsellor and a most estimable citizen. He died February 4, 1868.

It was he who had the frankness and simplicity to say to the full bench of the Supreme Judicial Court, presided over by Chief Justice Shaw,—“May it please your Honors, I have the greatest respect for the opinions of this Court—except—except in a few *gross* cases.” A sentiment which many might feel but few would dare to utter.

LEVI LINCOLN, “*clarum et venerabile nomen.*” Born at Worcester, October 25, 1782. He was the son of Lieutenant-Governor Levi Lincoln, who was Attorney-General of the United States under Jefferson, and who declined the place on the Bench of the Supreme Court of the United States, that was accepted by Judge Story.

He was graduated at Harvard University in 1802, in the most famous class that ever left that college, unless possibly the one of 1829. Admitted to the Bar in 1805, he entered at once into an extensive practice and became very active as a political supporter of the party of Jefferson. His first office was that of Senator from this County in 1812, and in 1814 he represented

the town of Worcester in the House of Representatives, and prepared and presented the protest against the resolve sending delegates to the Hartford Convention. From that year till 1822, except three times when he declined the service, he was constantly a member of the House of Representatives, and in 1822, was its Speaker. In 1820, he was a member of the constitutional convention and one of the leaders of the progressive party there. I remember to have read some of the debates in which his vigor and courage were very conspicuous. In 1823, he was chosen Lieutenant-Governor, and from that place in 1824, became an associate Justice of the Supreme Judicial Court. In 1825 he was chosen by the nomination of both the Democratic and Federal parties Governor of the Commonwealth, and was re-elected for nine successive years,—a longer term than that of any other Chief Magistrate since the constitution was adopted. What would not such a length of service by such a Governor be worth to Massachusetts to-day?

Declining a tenth reëlection, he was in a few months chosen to the Congress of the United States from this district, and continued there for two terms. Afterwards he was Collector of the port of Boston, first Mayor of the City of Worcester, and his last public official service was to cast one of the electoral votes of Massachusetts for Abraham Lincoln at his second election: He died at the age of 85 years, May 29, 1868.

Methodical industry, courage, fidelity and executive ability of a high order were the leading qualities which made him so valuable in the many offices that he held. Probably no one now living can speak of his professional career from personal recollection, for it terminated at the age of 42. He had not the reputation of a very learned lawyer or a very brilliant advocate. But he held his own against the strongest and best. He was fond of popularity and official station, but he sought neither by unworthy means, and devoted the advantages of both to the

public welfare. Through life he was public spirited and patriotic to the highest degree. Born just at the close of the revolutionary war, familiar in boyhood and early manhood with the surviving patriots and statesmen of the revolution, he was ever devoted in his allegiance to the Constitution and the Union. He was proud of the State which had so often honored him, and of the county, town and city of Worcester, his birthplace and life-long home. Few of us knew him in middle life, but we can nearly all remember his stately old age, surrounded by all that can make length of days desirable, his eye undimmed, his form erect, no faculty of body or mind impaired until long past four-score years.

CHARLES ALLEN, born in Worcester, August 9, 1797, was the son of Joseph Allen, Clerk of the Courts in this county from 1776 to 1810, one of the most active promoters and supporters of the revolution in Central Massachusetts, and through a long life one of its most honored citizens; a fine scholar and a courteous gentleman.

The education of this son, academic and professional, after one year at Yale College was conducted for seven years in the office of Samuel M. Burnside, one of the best Latin and historical scholars and common law lawyers of his day. As soon as he was twenty-one years of age, he was admitted to the Bar, displaying upon his examination a proficiency of which his teacher was always justly proud. He practised law in New Braintree till 1824, when he removed to Worcester and became the partner of John Davis, with whom he was associated until 1831. He was in the Massachusetts House of Representatives in 1829, 1833 and 1834, and Senator from the county in 1835 and 1836.

In the negotiations prior to the Webster-Ashburton treaty, signed in 1842, by the appointment of Governor Davis, he represented the interests of Massachusetts in determining the North eastern boundary. And the sagacity which he there dis-

played and his power of influencing other minds attracted much notice and drew forth warm praise from Mr. Webster.

He was appointed to the old Court of Common Pleas in 1842, and resigned in 1844, with all the members of the Court but one, when an ill judged economy cut down their salaries.

In 1857 he was appointed Chief Justice of the Superior Court for Suffolk County, and in 1859 of the Superior Court for the Commonwealth, from which he resigned on account of ill-health in 1867.

Twice he was tendered a position on the Supreme Judicial Court, and the Chief Justiceship was offered to him in 1860 upon the retirement of Chief Justice Shaw. I well remember what he said to me at the time: "At my age and in my state of health it is not to be thought of. It might have been different once, yet few know how much physical weakness I have had to contend with through life, and how much has been attributed to indolence in me, that was caused by the necessity of nursing my health."

In the winter of 1861, Governor Andrew sent him at the head of the Massachusetts delegates to the so-called Peace Congress at Washington. He died August 6, 1869.

In sketching his character if I were to consult my own preference, I should quote the discriminating eulogies pronounced at the Bar meeting directly after his death. But I must portray the man as he seemed to myself, as I saw him with my own eyes.

His early studies in the common law and American and English history were thorough and comprehensive, and they were by no means slight in English literature. His mind was saturated with the leading principles of the common law, and he was baptized at his birth into the spirit of liberty and independence. He never called any man his intellectual master. Though the ordinary methods of legal investigation were distasteful to him, yet he was fond of communing with his own mind in silent and



profound thought. His preparation in the use of books was usually slight, but he never failed to give abundant reflection to every important matter intrusted to his professional care.

Accordingly he entered upon the trial of a case thoroughly prepared and equipped in his own peculiar way. His mental processes were exceedingly rapid and his intuitive judgment wonderfully correct. He was the wisest counsellor I ever called to my aid.

In the crisis of a trial he never fluttered or quailed. If his manner grew a little more quiet, his face a little paler and a dangerous light was emitted from his eyes, his adversary had better beware, for he was sure to prove himself a tremendous antagonist. His cross-examinations were sometimes terrific and when roused he would pour forth a torrent of sarcasm and invective that like a lava flood scorched and burned everything over which it flowed. He could be eloquent upon worthy occasions; but he had no cheap rhetoric for ordinary use. His legal discussions usually began with conceded elementary principles on which as a foundation he would erect a superstructure of close and cogent argumentation. It was his custom to show what the law ought to be and in the nature of the case must be, paying comparatively little attention to what it had been on some former occasion decided to be.

He was sometimes a hard, dry and uninteresting speaker, and certainly had few graces of elocution and charms of mere manner. But he was master of an English style, fit vehicle for his thoughts, simple, idiomatic, forcible. He very rarely wrote out anything he wished to say, yet the sentences fell from his lips complete and requiring almost no correction for publication.

In Congress he made, owing to the peculiar political situation when he was there, less impression than would have been anticipated.

In the Constitutional Convention of 1853, though as every-

where else one of the wisest in counsel, he was not a leader in debate. Yet I remember one short speech on the question, whether in criminal cases juries ought to have the right to judge of the law as well as the facts, replete with wisdom and a model of compact, vigorous and statesmanlike reasoning on that great question.

I purposely abstain from dwelling on his political career, but I cannot refrain from saying, that the history of the great awakening which led to Northern resistance to the encroachments of the slave power and prevented our republic from becoming a vast slave-holding empire, can never be justly and truly written without giving to Charles Allen a conspicuous place among the wisest, bravest and best of those to whom we owe it that we have a country worth living in.

EDWARD MELLEN; born at Westborough, September 26, 1802, graduated at Brown University, 1823, admitted to the Bar in Middlesex in 1828, practised his profession in that county until he was appointed a Judge of the Court of Common Pleas in 1847. In 1854 he was made Chief Justice of that Court, which position he held until the Court was abolished in 1859. He then opened an office in the city of Worcester, where he continued to practice until ill health compelled him to retire. He died at Wayland, May 24, 1875.

As a lawyer in practice in this county, he probably never exhibited the full measure of his powers. He returned to the Bar too late in life to render that possible in a new sphere of action. On the Bench he was urbane in manners and assiduous in the discharge of all judicial duties, which he performed satisfactorily to the profession and the public. He knew Massachusetts statutes and practice quite thoroughly, and the reported cases almost by heart. When he erred in his rulings, which he did not oftener than the average, it was usually from concluding that the point in dispute was included within some adjudged case,

when it finally proved to fall slightly without the principle of the previous adjudication. His feeling of obligation to the Commonwealth caused him to hold courts early and late, and I well remember that he once compelled me to try a house warrant case all Christmas Day.

It seemed to me at the time, and almost twenty years later I think so still, a very great hardship to drive into retirement a worthy, useful and generally acceptable public officer, at a period in life when he might have served the Commonwealth usefully many years longer, and yet when he was too far advanced to return easily to his profession.

Under our constitution it is doubtless competent to abolish any Court but the highest, yet the measure is an extreme one, and a resort to it to gratify the resentment of active practitioners who chance to possess temporary political influence, or to increase the patronage of an ambitious Governor, is certainly unjustifiable, and a very dangerous precedent.

CHARLES HENRY BOYLSTON SNOW; born at Fitchburg, August 7, 1822, died there September 18, 1875. He was graduated at Harvard University in 1844, admitted to the Bar in 1848, and through life practised in the city of his nativity. He was a well read lawyer of sound judgment—a cultivated, modest, warm-hearted gentleman, of high principles and independent character. He had attained to a respectable professional position, and commanded universal confidence and respect in the community where he resided.

NATHANIEL WOOD; born at Holden, August 29, 1797, graduated at Harvard University in 1821, where he was afterwards tutor. He was admitted to the Bar in Boston, and in 1827 became a member of the firm of Torrey and Wood, at Fitchburg, which for many years was the leading office in the northern part of Worcester County. When I first remember this Bar he was in very active practice, employed in nearly every cause from

that section of the county. He attended the entire term of court, and was often called into trials from other localities.

After Fitchburg became a shire-town, he was seen here less frequently. He was indefatigable in his preparation, zealous and persistent as an advocate, more than ordinarily influential with juries, and enjoyed a well-earned reputation as a judicious counsellor and skilful conveyancer. For nearly fifty years he gave his life chiefly to the law, but was always also one of the most active, useful and public-spirited and conspicuous citizens of Worcester County North. He died August 2, 1876.

EMORY WASHBURN was born at Leicester, February 14, 1800, the son of Captain Joseph Washburn, an officer who served through the Revolutionary War with bravery and distinction. He was prepared for college at Leicester Academy, passed two years at Dartmouth, and was graduated at Williams College in 1817. He studied law in his native town with Bradford Sumner and Nathaniel P. Denny, and with Judge Charles A. Dewey, lately of the Massachusetts Supreme Judicial Court, at Williams-town; also for a year at the Harvard Law School. He was admitted to the Bar at Lenox, in March, 1821, practised six months at Charlemont, in Franklin County, and then returned to open an office in his native town, which he represented in the General Court in 1826 and 1827.

In March, 1828, he removed to Worcester, and soon secured a large circle of clients, who were more attached to him, and clung to him more closely than I ever knew clients to adhere to any other counsel. He formed a partnership with John Davis in 1831. In 1830, he was Aid to Governor Lincoln; in 1838, a Representative in the Legislature, and made that year the first report in favor of a railroad from Worcester to Albany, supporting it by a strong speech. In 1840 he published the Judicial History of Massachusetts prior to 1775, a work of great research and historical value.

He was Senator from Worcester County and chairman of the Judiciary Committee in 1841 and 1842. From 1844 to 1847 inclusive, he was a Judge of the Court of Common Pleas. Then for about two years he was agent of one of the large Lowell Corporations, and resided there; but such employment was not suited to his tastes, and in January, 1850, he resumed the practice of his profession in Worcester, regaining, without a day's delay, the clients whom he had left when he went upon the Bench, six years before. The causes of his professional success are not far to seek. He identified himself completely with the feelings, interests and cases of his clients; they enlisted the warmest sympathies of a singularly warm and sympathetic nature. If his clients had been usually bad men with poor cases,—if he had been, for example, an habitual defender of guilty criminals,—this would not be high praise. But they were as a class the most substantial and trustworthy citizens of the County. Rogues did not naturally resort to him for aid in plundering others or defending themselves. It was well known that he was honest to the heart's core, and could not have exerted himself where he disbelieved in the merits of his case. Of course, like all other men, he was liable to be deceived, and the natural bias of a lawyer in his clients' favor was in his case intensified by the guilelessness of his own nature and the warmth of his feelings. But he was the farthest possible removed from that class of lawyers who are ready to prostitute their powers in behalf of any one who pays them enough; who become accomplices after, sometimes even before, the fact with those who commit frauds and crimes, themselves sheltered from danger under the immunities of the profession; such lawyers, whether their abilities are great or small, are a pest to any community. The character of the man, then, stood behind the efforts of the advocate. On every jury he was sure to have clients and friends, and he exerted in this way a prodigious influence. So that his success in winning

verdicts was quite disproportionate to his mere intellectual power. Moreover, his industry, assiduity and fidelity were boundless. Nothing was ever left undone that might possibly promote his clients' success. Every point, little and great, was elaborated to the utmost. Sometimes, no doubt, he would have gained by a wholesome neglect and might advantageously have passed by the minutiae to concentrate himself upon the vital questions involved. On the whole however, his average of success was as great as that of any man who ever tried causes in a Worcester Court-house.

In dealing with pure questions of law his judgment was good, his examination of authorities exhaustive and his success great. I well remember one instance where at the argument, the old and great Chief Justice—he who will always be the Chief Justice of Massachusetts to those of us who remember him—manifested dissent and even impatience, but where upon reflection he came round to Mr. Washburn's opinion, and eventually delivered the judgment of the court in his favor upon precisely the grounds of his argument.

Most men with such a practice would have been too completely engrossed to take much active interest in affairs outside their profession. But he was always ready to spend and be spent on behalf of every cause in which he believed; that of peace, temperance, prison reform, social science, international law and many others. Where the time came from to do these things other men wondered; the secret lay in an untiring industry which found relief from one occupation, not by rest, but by turning to another self-imposed task.

In the autumn of 1853 while absent in Europe he was nominated for Governor, and on his return found himself the standard-bearer of his party in an unexpectedly closely contested election. He was elected and for a single year performed the duties of chief magistrate admirably. But the great tidal wave of Native

Americanism overflowed the State, and the party, well styled "Know-nothings," came into power.

It is said that after administering the required oaths to the incoming legislature, he remarked, "Gentlemen, so far as the oath of office is concerned you are now qualified to enter upon your duties,"—and they looked at each other and smiled, quite conscious that the oath was the only qualification of office which most of them possessed. God save the Commonwealth of Massachusetts from such another experience of humiliation!

In 1856, he was chosen Professor of Law on the Bussey foundation at Harvard, and held that place for more than twenty years; upon accepting it he removed his family to Cambridge. Before he left Worcester, a public dinner was given to him by his fellow-citizens, which was the most interesting occasion of the kind I ever attended.

No man and no family ever left this city more beloved and regretted and permanently missed. For his house had always been the centre of open-handed hospitality to our own people and to strangers. In the new sphere to which he removed, he justified fully the affectionate respect in which he was held here.

As a teacher in the Law School he was eminently successful. He inspired the young men with a love for the science of the law, and his helping hand was readily extended to assist them in every difficulty. He was one to whom those who were in trouble of any kind instinctively turned for counsel and assistance; and such applications were never made in vain. That he was universally respected and beloved by all the twenty classes who were instructed by him at the Law School, many will rise up to bear witness from all the leading cities and nearly all the States of the Union. His powers of communicating legal knowledge would compare favorably with those of any other law professor, but his kindness to the young men, the unaffected interest that he felt and manifested in their welfare while in the school and after-

wards, and the silent influence of his character upon them, were the qualities in which he excelled and which secured him such a permanent place in their affections.

He was no sooner established in his professorship than he undertook to write a treatise on the law of real property. It was a task of great labor, and executed with characteristic fidelity. The only previous text-books on this subject were English, and while needlessly prolix on some heads of little or no practical use in this country, they were strikingly deficient upon many topics of special importance in the United States. The American Law of Real Property, the last edition of which in three volumes was published a very few months before the author's death, is an original work and not a compilation, a work of great research, for he made no use of scissors and paste in its composition and trusted to no students to collect his authorities. It will long hold its place as the standard authority in that department of the law. In a mercantile point of view, it has been one of the most successful legal publications ever produced in this country. Governor Washburn also published a treatise on Easements in one volume, which is the most complete of any extant on that topic. He also published lectures on the study and practice of the law; a history of Leicester Academy and of the Town of Leicester. For fifty years he was a member of the American Antiquarian Society; he was a Fellow of the American Academy of Arts and Sciences; a Vice President of the Massachusetts Historical Society, and held many other places of usefulness, trust and honor, the mere enumeration of which would be fatiguing. His published reports and addresses are very numerous,—thirty five of them are collected in the Boston Library.

It was of him, I believe, that Edward Everett Hale said, "If you want a thing done well and promptly go to the busiest man you can find, Governor Washburn for example."

In social life the charm of his cordial manners and the readi-



ness and intelligence of his conversation caused him to be greatly sought for and universally welcome. And so his blameless life glided peacefully and happily on for seven years beyond three score and ten. He was still young in his feelings, unimpaired in all his faculties and energies. The last winter of his life he was a member of the House of Representatives from Cambridge, as he had been from Leicester fifty-one years before. He was chairman of the Judiciary Committee and exerted the great influence naturally due to his experience and abilities, while his singular faculty in conciliating the good will and winning the hearts of all around him was never more conspicuous.

We confidently expected to have him with us a number of years longer. The last evening before he was attacked with the acute illness of which he died, I sat next to him at dinner at the house of Judge Thomas, and the table being too large for general conversation we talked with each other for two hours, chiefly about Worcester and Worcester County, old friends and associations very dear to both of us. Thirty-six hours later the morning papers announced his dangerous illness. The honors that were paid to his memory after his decease are still fresh in our recollection. Rarely are such sincere and heartfelt tributes bestowed on any man. An Eastern proverb says, "Call no man happy till he dies," but well may such a life, perfected and rounded to such a conclusion, be almost envied by survivors.

And here I had hoped my task would end, but another name has just been added to the list of the honored and lamented dead.

Less than two weeks ago I visited at his lovely summer seaside home Judge Thomas, and though he was very ill, and when I took his hand at parting I feared it might be for the last time, yet I did not anticipate that his name would be added to the number of whom I was to speak this evening. I told him that I was to try to do this duty which he was first asked to do,

and would have done so much better, and he expressed the strongest interest in the occasion. "I should so much like to be there," he said, and added, "perhaps if I get better I may be able to go." Alas! that it could not be so. What would we not give to have him with us, to see his face radiant with intellect and feeling, to hear his voice stirring our hearts like the sound of a trumpet once more.

BENJAMIN FRANKLIN THOMAS, born in Boston, Feb. 12, 1813, was the grandson of Isaiah Thomas, the patriot printer of the Revolution, and the son of a father of the same name who died young. He was named after his grandfather's compatriot and friend, the great philosopher. He was graduated at Brown University in 1830, at the age of seventeen years. He studied law with his brother-in-law, Pliny Merrick, in Worcester, and at the Harvard Law School, and was admitted to the Bar in 1833, before he was twenty-one years of age. At that time the legal business of the county was limited, and preoccupied by very able men, the names of several of whom have been dwelt upon by me already. John Davis, Pliny Merrick, Charles Allen, Emory Washburn, Ira M. Barton, Isaac Davis, and others enjoyed the most lucrative practice, which they had not the slightest inclination to relinquish in favor of junior competitors; while Samuel Hoar, of Concord, and other giants from adjoining counties, were ready to be called into any cases of unusual importance. It would be hard to imagine a less promising outlook for a boy of twenty-one. But he entered upon the barren field with dauntless courage and adequate patience. Soon there were found a few men willing to encourage youthful merit of a rare order, who intrusted him with important interests. He never forgot them, nor they him. He held in grateful remembrance their early encouragement, and they placed the most implicit confidence in the abilities which, even in their immaturity, served them so well. He had to contend with a fiery

temper, which he soon conquered so far that when it did give way it was usually to the detriment of his adversaries and not of his clients. In 1842, he was for a single year Representative from Worcester to the General Court, and this year's service brought him into notice to such an extent as to secure him the place of commissioner under the United States bankrupt law, then a profitable office, and that of Judge of Probate for Worcester County, when Judge Barton resigned, in 1844. He only needed to be known to be appreciated; and when he resigned that office in 1848 he stepped at once into a very leading position at the Bar. In the political campaign of 1848 he made some very brilliant speeches. But from that time until his appointment to the Bench in 1853, he led, almost without equal or rival, the Bar of central Massachusetts. Charles Allen was in Congress, and Pliny Merrick on the Bench of the Court of Common Pleas most of the time. There was no one left who, for a great cause which required the power of rising to an emergency, could compare with Thomas. I was at an age to admire his achievements perhaps unduly. But looking back now, after twenty-five or thirty years, having heard at the Bar and met in consultation many of the greatest lawyers of the period in this and other States, it really seems to me that some of Thomas's efforts at the Worcester Bar, before he went upon the Bench, were of almost unsurpassed brilliancy. He prepared a great case with the utmost care, both on the law and on the facts; he was prudent but never timid, and at the trial he discussed the law with great ability. (In those days points of law were argued at *nisi prius* far more than is permitted now). Into the cross-examination of witnesses and the final argument he threw all his soul. I think it is not exaggeration to apply to him what was said of Charles James Fox, that "his intellect was all feeling, and his feeling all intellect." A few months before his appointment, and in expectation of it, I joined his office, and was his professional

partner. How much I came to love him in that brief association I will not try to tell, lest I should make myself ridiculous by an unsuitable display of youthful enthusiasm. In 1853, January 28, he went upon the Bench of the Supreme Judicial Court, vice Judge Fletcher, resigned, and remained there until 1859, when he resigned, compelled to do so sorely against his will, by the utter inadequacy of the income to maintain a large and necessarily expensive family. Those who complained of him for retiring—and their criticisms were many and harsh—could never have put themselves in his place, nor have contemplated such a spectacle as has been seen since, of the daughters of a Chief Justice of the Supreme Court of the United States supporting themselves in their old age by copying and plain sewing, their scanty income eked out by a subscription of the Bar. During the six years he was on the Bench he certainly attained a very brilliant judicial reputation, which his opinions in fourteen volumes of the reports amply justified. The high estimation in which he was held by the Bar and the public was attested by the universal regret expressed upon his retirement. At a later period bitter partisanship accused him of being a dissenting Judge, because in four instances out of nineteen hundred, he wrote dissenting opinions. Waiving the question whether the strength of the court and the interests of the Commonwealth are best promoted by a manly and vigorous independence, or by the unanimity of indifference and common-place, it is enough to point out two of his dissenting opinions,—that in *Marble vs. Worcester*, and that of *Commonwealth vs. Anthes*,—and ask any lawyer whether he could desire to have such specimens of masterly reasoning upon principles and such able marshalling of the authorities expunged from the reports. In the last-named case the Legislature has since confirmed his opinion by reënacting the statute which gives juries the right to judge of the law in criminal trials. If he erred here

it was in the company of many of the ablest jurists, and on the side of the rights of the people. The question remains an open one in Massachusetts to-day. The only public office held by Judge Thomas after he left the Bench was that of member of Congress for a single term. He was chosen almost without opposition in place of Charles Francis Adams, when he was made minister to England in 1861. Public attention had been at that time particularly attracted to Judge Thomas by a very brilliant pamphlet which he then published on the constitutional issues raised by the attempt of the Southern States to secede from the Union. He was always a warm lover of his country, and his patriotism was never alloyed by any selfish aspirations. In Congress he was thought by some of us to be too conservative for a revolutionary period. Yet some of his speeches read to-day sound like Cassandra's warnings. That his brief career there was a very brilliant one, the published volume of his speeches and the memory of him that still lingers in Washington sufficiently attest. His chivalrous nature always inclined him to the weaker side in any controversy. And perhaps a tendency to oppose rather than propose was carried too far at that juncture. He entered Congress reluctantly, and left it joyfully to return to his profession and domestic life. At the Suffolk Bar his professional career was quite different from what it had been at Worcester. He did not find it necessary to engage frequently in jury trials, but whenever he did, his early brilliancy shone forth undimmed. By chamber counsel and legal arguments he earned a large and satisfactory income. His professional position was in the front rank, and he enjoyed the highest social consideration. I pass by his nomination to the chief-justiceship and the controversy that it excited. He bore himself with dignity and true nobility of nature while the issue was pending, and allowed the failure of the council to confirm him to leave no lasting roots of bitterness in his heart. No man could more truly apply to him-

self than Judge Thomas the words of Henry Clay: "I thank God that I have no memory for injuries." He loved his library and his garden, and looked forward eagerly to the time when he might be able to retire and devote the evening of life to some literary undertaking. The last time I heard him speak in public was at the dinner of the Suffolk Bar Association, where he presided and made the opening address, full of wit and pathos and eloquence. He died at Beverly, September 27, 1878. Struck down in the freshness of his strength and usefulness, with short warning to himself, and hardly any to his friends and the community, ill can he be spared in any of the relations of life.

The statistics of the other members of the Bar, whose names I have been obliged to omit for want of time, have been prepared and lie before me. If I were to read them over you would agree with me that there are very few who cannot be remembered with satisfaction. Of course there are some whose unworthiness all must confess.

" Oh, name not their names,  
Let them rest in the shade,  
Where, cold and unhonored,  
Their relics are laid."

But what profession is there in which, out of so large a number, the wrecks have not been at least equally numerous.

Ever since the Revolution, for upwards of one hundred years, the Bar of this County has been crowded with very able, honorable, high principled men. Statesmen and magistrates, jurists and advocates of eminence, have always been found among its numbers. Strike out of the history of the Commonwealth and of this County the page which belongs to the lawyers of Worcester County, and how great the void would be! The past at least is secure. I can speak of the Worcester County Bar with some degree of impartiality, since for many years I have not been one of its active members. I cannot help speak-

ing of it with pride and affection, for I am in the fourth generation of a family more or less closely connected with the Courts and the Bar of this County. I feel at liberty to say that the men who uphold its character and honor to-day, are as strong and as good as any of their predecessors.





## A P P E N D I X .

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The appendix originally published with the address of Mr. Willard, and that published with the address of Mr. Washburn, and that which has been prepared since the address of Mr. Foster, are here placed together.



## A P P E N D I X

### TO THE ADDRESS OF HON. EMORY WASHBURN.

#### A.

The Judges of the Supreme Court in 1830 were Hon. Lemuel Shaw, Chief Justice, Hon. Samuel Putnam, Hon. Samuel S. Wilde, Hon. Marcus Morton.

Judge Putnam resigned his seat upon the Bench January 26, 1842, and retired altogether from public life. He removed from Salem, where he had formerly lived, to Boston, many years before his death. He died July 3, 1853, at the age of eighty-five. He had succeeded Judge Parker upon his promotion to the place of Chief Justice, in September, 1814. He was succeeded by the Hon. Samuel Hubbard, of Boston, February 22, 1842. Judge Wilde retained his seat upon the Bench till November 5, 1850. He was appointed June 17, 1815, in the place of Judge Daniel Dewey, deceased, and was succeeded by Hon. George T. Bigelow. He resided in Hallowell when appointed, but, upon the separation of Maine from Massachusetts, removed to Newburyport. But for many years before his death resided in Boston. He died June 22, 1855, at the age of eighty-four. Judge Morton held the place of Judge till January, 1840, when he was elected Governor of the Commonwealth. He was appointed to the place, July 4, 1825, as successor to Hon. Levi Lincoln. The number of Judges having been again reduced to four, upon his election as Governor no successor was appointed. Hon. Charles A. Dewey was appointed to the Bench under a law of 1837 increasing the number of Judges of that Court to five. He received his appointment May 25, 1837. Hon. Samuel Hubbard succeeded Judge

Putnam, February 22, 1842, and held office till his death, December 24, 1847, and was succeeded by Hon. Charles E. Forbes, of Northampton. Hon. Theron Metcalf was appointed to the Bench February 25, 1848, the number of Judges of the Court having been increased by an act of the Legislature to five. Hon. Charles E. Forbes succeeded Judge Hubbard, February 7, 1848, and held office till the following October, when he resigned, and was succeeded by Hon. Richard Fletcher, of Boston. Hon. Richard Fletcher was appointed in place of Judge Forbes, October 24, 1848, and held office till January, 1853, when he resigned and was succeeded by Hon. Benjamin F. Thomas. Hon. George T. Bigelow succeeded Judge Wilde, November, 1850.

By an act of April 20, 1852, the number of the Judges of the Court was increased to six. Hon. Caleb Cushing was appointed under this act a Judge of the Court, and held the place till his appointment as Attorney-General of the United States in 1853. Hon. Pliny Merrick was appointed his successor, March, 1853. Hon. Benjamin F. Thomas succeeded Judge Fletcher, January, 1853.

The Bench, therefore, now consists of Hon. Lemuel Shaw, Chief Justice; Hon. Charles A. Dewey, Hon. Theron Metcalf, Hon. George T. Bigelow, Hon. Benjamin F. Thomas, Hon. Pliny Merrick.

## B.

The Judges of the Court of Common Pleas in 1830 were Hon. Artemus Ward, Chief Justice; Hon. Solomon Strong, Hon. John M. Williams, Hon. David Cummings.

Hon. Judge Williams succeeded Chief Justice Ward in 1841, and held office till his resignation in June, 1844, when he was succeeded by Hon. Daniel Wells, of Greenfield, July, 1844. Hon. Charles H. Warren, of New Bedford, was appointed to the place of Judge Williams, promoted in 1841, and held office till

his resignation in June, 1844. Judge Strong resigned in 1843, and was succeeded by Hon. Charles Allen, of Worcester, who was appointed in 1843, and resigned in 1845.

On the 1st of March, 1843, the number of Judges was increased to five, and to fill the place thus created Hon. Pliny Merrick, of Worcester, was appointed Judge of this Court, and held the place till 1848, when he resigned. Judge Cummings resigned the office in June, 1844. Upon the resignation of Judges Warren and Cummings, Emory Washburn and Joshua H. Ward were appointed to the seats thus vacated, in July, 1844. Judge Ward held office until his death, May 29, 1848, and was succeeded by Judge Byington.

In March, 1845, the number of the Judges of this Court was increased to six. Hon. Harrison G. O. Colby, of New Bedford, was appointed soon after to the new seat, and resigned in 1847. Hon. Luther S. Cushing was appointed in 1845, in place of Judge Allen. Hon. Charles E. Forbes succeeded Judge Colby in 1847, and held office till February 7, 1848, when he was appointed to the Bench of the Supreme Court. Judge Washburn held office until December, 1847. Hon. Edward Mellen, of Wayland, was appointed to the Bench to succeed Judge Washburn, and succeeded Chief Justice Wells in 1854. Judge Cushing was appointed Reporter of the Supreme Court, upon Judge Metcalf's promotion to the Bench in 1848, and was succeeded by Hon. George T. Bigelow, of Boston, who held office until his appointment to the Supreme Court, in November, 1850. Hon. Horatio Byington, of Stockbridge, was appointed to succeed Judge Ward in the summer of 1848, and held office till his death, February, 1856. Hon. Jonathan C. Perkins succeeded Judge Forbes, upon his promotion to the Supreme Court in 1848. Hon. Thomas Hopkinson, of Lowell, was appointed to succeed Judge Merrick, upon his resigning his seat upon this Bench in 1848. He held office until 1849, when he resigned, and was succeeded by Hon.

E. Rockwood Hoar, of Concord. He held office till 1855, when he resigned and was succeeded by Hon. Henry Morris, of Springfield. Hon. Pliny Merrick was a second time appointed to the Bench, to succeed Judge Bigelow, on his promotion to the Supreme Court, November, 1850, and held office till his own promotion to the same Court, in March, 1853, when he was succeeded by Hon. George N. Briggs, of Pittsfield.

May 24, 1851, an act was passed increasing the number of Judges to seven, and Hon. Henry W. Bishop, of Lenox, was appointed to the office thus created. Chief Justice Wells died June 23, 1854, and Judge Mellen was promoted thereupon to the vacancy thereby created, and his own place was filled by the appointment of Hon. George P. Sanger, of Boston.

The Court now consisting of Chief Justice Mellen, and Justices Perkins, Bishop, Briggs, Sanger and Morris.

### C.

JUDGES OF PROBATE.—Hon. Nathaniel Paine, from 1801 to 1836; Hon. Ira M. Barton, from 1836 to 1844; Hon. Benjamin F. Thomas, from 1844 to 1848; Hon. Thomas Kinnicutt, 1848.

### D.

COUNTY AND DISTRICT-ATTORNEYS.—Until 1832, the old system of County Attorneys for the several counties was retained. By an act of that year the State was divided into Districts. The Middle District embraced Worcester and Norfolk Counties. This continued until May, 1852, when Worcester County was created into a separate District.

Hon. Pliny Merrick was appointed County Attorney for the County of Worcester in 1824, and held the office till the creation of the District system, when he was appointed the first District-Attorney for the Southern District, and held the office till his appointment to the Court of Common Pleas in 1843. Hon. Ezra

Wilkinson was appointed to succeed Judge Merrick. He belonged to Dedham, and upon the District being divided ceased to act for Worcester County. Benjamin F. Newton, Esq., of Worcester, was appointed District-Attorney of the new Middle District. He held office till his death, the succeeding year, and was succeeded by P. Emory, Aldrich, Esq., then of Barre. He was superseded and removed by Governor Gardner in December, 1855, and John H. Mathews, Esq., of Worcester, was appointed in his place.

## E.

SHERIFFS.—Hon. Calvin Willard, of Worcester, held the office in 1830, having been appointed in 1824. He resigned office, and was succeeded by Hon. John W. Lincoln, of Worcester, who held the place till his removal by Governor Boutwell in 1851. James Estabrook, Esq., was appointed to succeed Colonel Lincoln, and continued in office till removed by Governor Clifford in 1853. George W. Richardson, Esq., was commissioned upon the removal of Colonel Estabrook.

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HON. BENJAMIN ADAMS was born in Mendon, December, 1764, was graduated at Brown University, 1788, read law with Hon. Seth Hastings, and was admitted to practice at Worcester in 1792. He began practice in Hopkinton, but after remaining there less than a year, removed to Uxbridge, where he ever after resided. He was a member of Congress from 1816, when he was elected in place of Judge Brigham, who died at Washington, till 1821. He was a member of the Senate of Massachusetts during the years 1814, 1815, 1816, 1823, 1824 and 1825. He died March 28, 1837, at the age of seventy-two.

SUMNER BASTOW was a native of Uxbridge, or his father early removed to that place. He was a graduate of Brown University

in the class of 1802. For some time after he left college, he was engaged in mercantile business, but he afterwards read law with Estes Howe, Esquire, of Sutton, and was admitted to the Bar in March, 1811. He opened an office in the village of West Sutton, where he did a large professional business till 1823, when, upon receiving the appointment of Cashier of the Bank at Oxford, he removed to that place, and, in a great measure, retired from practice. In 1824-25, he was one of the three candidates for Representative to Congress from the Worcester South District. The fourth trial resulting in the election of John Davis. He died at Oxford, December 29, 1845, aged 67.

JESSE BLISS was born in Brimfield, and was graduated at Dartmouth in 1808. He studied his profession with the Hon. Jabez Upham. He practised law in what is now West Brookfield, after his admission to the Bar in 1812, till his death, August 25, 1853.

HON. WILLIAM B. BANISTER was born in Brookfield, November 8, 1773, and was graduated at Dartmouth in 1797. He spent most of his professional life in Newburyport, though for a few years, about 1830, he was a resident of Brookfield. After this period he returned to Newburyport, where he died July 1, 1853, at the age of 79. He was at one time a member of the Senate from the County of Essex.

DAVID BRIGHAM was born in Shrewsbury, August 15, 1786, was graduated at Harvard in 1810, and afterwards was a tutor in Bowdoin College. He practised his profession in New Braintree, Leicester, Greenfield (where he was, for several years, a partner with Hon. Samuel C. Allen), Shrewsbury and Fitchburg. From the latter place he removed to Iowa, where he died in 1843, at the age of fifty-seven.



HON. LEWIS BIGELOW was born in Petersham, and was graduated at Williams College, in 1803. He studied law with his father, Daniel Bigelow. He was a member of the Senate from Worcester, from 1819 to 1821, and in the latter year was chosen to Congress for one term. He was a sound and learned lawyer, and prepared, and in 1813 published, a digest of the Massachusetts Reports, of which, after an interval of seven years, he published a second and enlarged edition, and in 1830, a supplement to this, bringing down the work to the eighth volume of Pickering's Reports. It was a work of great labor and accuracy, and has never been surpassed by any American Digest.

He left the Commonwealth, and became one of the earliest settlers of the now flourishing city of Peoria, in Illinois, where he held the office of Clerk of the Courts of that County, at the time of his death, October 3, 1838.

AARON BROOKS was born in Petersham, was graduated at Brown University, in 1817, and subsequently was a tutor in that Institution. He studied his profession partly with Hon. Levi Lincoln, and partly with Hon. Lewis Bigelow, and settled in Petersham, where he continued in successful practice in the counties of Franklin and Worcester, till the time of his death, May, 1845.

He left a son, Francis A. Brooks, who after settling in the profession for a few years in Petersham, removed to Boston.

FREDERICK W. BOTTOM was born in Plainfield, Conn., and was graduated at Brown University, in 1802. He studied law partly with Hon. Tristram Burgess, of Rhode Island, and partly with Hon. Pliny Merrick, of Brookfield. He first settled in Charlton in, 1806, and afterwards removed to Southbridge, then a parish of Sturbridge, where he resided till his death, May 24, 1855, at the age of seventy-five.

He left a son now in practice as a lawyer in Southbridge.

CHRISTOPHER C. BALDWIN was born in Templeton, August 1, 1800. He was fitted for college at Leicester Academy, was a member of Harvard until May of his senior year, 1823, when he left and entered the office of Messrs. Lincoln & Davis, in Worcester, and was admitted to practice in 1826.

He began practice in Worcester, afterwards was in business a few years in Barre, from whence he removed to Sutton. He afterwards removed to Worcester, and soon after was appointed Librarian of the American Antiquarian Society.

While on a journey in Ohio, he was thrown from a stage coach, and instantly killed, in Norwich, in that State, August 20, 1835. He died universally lamented.

SAMUEL M. BURNSIDE was born in Northumberland, N. H., was graduated at Dartmouth, in 1805. He studied law with Judge Ward, of Boston, and commenced business in Westborough, in March, 1810. In September of the same year, he removed to Worcester, where he continued to reside the remainder of his life. His reputation for learning in his profession was high. He retired from business several years before his death, which took place July 29, 1850, at the age of sixty-seven.

AMOS CROSBY was born in Brookfield, was graduated at Harvard in 1786, afterwards preceptor of Leicester Academy, and subsequently a tutor in Harvard University. He was admitted to the Bar, and settled in the profession of the law in Brookfield, in 1804, where he continued till his death, June, 1836, at the age of seventy-five.

JOHN DAVIS, Jr., as he was known at the Bar, was born in Shirley, was never graduated at college, studied law with Merrick Rice, of Lancaster, and from 1811 to 1821 was in practice in Lancaster. The latter year he removed to Charlton, where he remained engaged in his profession until his death, July 8, 1840.

HON. JOHN DAVIS was born in Northborough, was fitted for College at Leicester Academy, was graduated at Yale in 1812, studied law with Hon. Francis Blake, began practice in Spencer, but soon afterwards removed to Worcester, where he ever afterwards resided. In 1825 he was elected to Congress, and held the place till 1834, when he was elected Governor of the Commonwealth.

In March, 1835, he was elected Senator in Congress, and held the office till January, 1841, when he was again elected Governor, and held the office two years. In March, 1845, he was again elected Senator in Congress, and held the office till March, 1853, when he retired to private life, and died April 19, 1854, at the age of 67. He was at different times a partner in business with Levi Lincoln, Jr., Charles Allen and Emory Washburn. His son, J. C. B. Davis, was for several years a member of this Bar.

HON. ALFRED D. FOSTER was born in Brookfield, July 26, 1800, was graduated at Harvard in 1819, studied law with S. M. Burnside, Esq., was engaged in his profession about two years in Worcester, after which he withdrew from the practice. He was three years a member of the Executive Council, and a member of the Senate from Worcester in 1848. He was a man of great worth, and universally respected. He died August 15, 1852. He left a son, now in practice in Worcester as a lawyer.

ISAAC GOODWIN was born in Plymouth, June 28, 1786, but was never graduated at any College. He studied law with Hon. Joshua Thomas. He commenced practice in Boston, in 1808, but removed, and was settled in Sterling in his profession from 1809 till 1826, when he removed to Worcester. He continued to reside there till his death. He published the "Town Officer" in 1826, and the "New England Sheriff" in 1830. His death took place September 16, 1832, at the age of 46.

ALEXANDER DUSTIN was born in New Boston, N. H., April 17, 1776, was graduated at Dartmouth in 1799, studied law with Hon. S. Bell, of Francestown, Hon. Wm. Crosby, of Billerica, and Hon. Joseph Locke, of Billerica, and was admitted to practice in November, 1804. He first settled in Harvard, but after five years, in 1810, removed to Westminster, where he remained until 1826, when he removed to Sterling, where he continued to reside until his death, January 24, 1837, at the age of 60.

DANIEL GILBERT was a native of Brookfield, was graduated at Dartmouth in 1796, and was admitted to the Bar in 1805. He resided at North Brookfield till his decease, though for several years of the latter part of his life, he had withdrawn from practice. He died March 11, 1851, at the age of 76.

HON. NATHANIEL HOUGHTON was born in Sterling, but did not receive a collegiate education. He studied law with the Hon. Nahum Mitchell, of Bridgewater, commenced practice in Barre, in 1810, and continued to reside there till his death, December 21, 1840. He was a Senator from Worcester in 1825, and the two following years.

HON. SETH HASTINGS was born in Cambridge, was graduated at Harvard in 1782, and studied law with Hon. Levi Lincoln, Senior. He was admitted to the Bar in June, 1786, and commenced practice in Mendon, where he ever after resided. His business extended to Norfolk as well as Worcester, and was at one time very extensive.

From 1801 to 1807 he was a member of Congress, and from 1810 to 1812 was a member of the Senate from Worcester. From 1819 to 1828 he was Chief Justice of the Court of Sessions for this County. When he commenced business, there were but eleven lawyers in practice in the County.

He died at the age of 70, November 19, 1831. He left two

sons, members of the profession, both of whom have since deceased.

HON. WILLIAM S. HASTINGS was son of the above, and born in Mendon in 1798, was graduated at Harvard in 1817, studied law with his father, and was admitted to the Bar in 1820. He settled in Mendon, where he resided till his death, June 17, 1841. He was a member of the Senate from Worcester from 1830 to 1833. He had been three times elected to Congress, and died while a member, at the Sulphur Springs, in Virginia. He was never married.

NAHUM HARRINGTON was born in Westborough, June 13, 1778, and was graduated at Brown in 1807. He studied law with Hon. Fisher Ames and Hon. James Richardson, and was admitted to practice in April, 1811. He immediately opened an office in Westborough, where he resided till his death, December 31, 1848, at the age of 70.

HON. CHARLES C. P. HASTINGS, son of Hon. Seth Hastings, was born in Mendon, and was graduated at Brown in 1825. He studied law a part of the time with Judge Howe, at Northampton, and a part with his brother, Hon. Wm. S. Hastings. He was admitted to the Bar, September, 1828, and settled in Mendon, where he resided till his death, September 25, 1848, at the age of 44. He was a member of the Senate from Worcester in the years 1840 and 1841.

HON. JOSEPH G. KENDALL was born in Leominster, was graduated at Harvard in 1810, and for five years was a tutor in that University. He studied law with Hon. Abijah Bigelow, and settled in Leominster, where he remained till 1833, when he was appointed Clerk of the Courts for this County. He held this office till his death, October 2, 1847, at the age of 59. In 1824,

he was elected to the Senate, from Worcester, and held the office four years. He was a member of Congress during the years 1830 to 1833, the 21st and 22d Congresses.

ELEAZER JAMES was born at Cohasset, in 1754, and was graduated at Harvard in 1778. He was a tutor in that institution from 1781 to 1789. He studied theology, and preached for a time, though he never was settled. He then studied law with Hon. Levi Lincoln, Senior, and began business in Barre, where he resided till near the close of his life, when he removed to the family of his son-in-law, Hon. Charles Allen, in Worcester, where he died April 14, 1843, at the age of 89.

WILLIAM LINCOLN was born in Worcester, September 26, 1801, and was son of Hon. Levi Lincoln, Senior. He was graduated at Harvard, in 1822, studied law with Hon. Enoch Lincoln, in Maine, Hon. John Davis, and Hon. Rejoice Newton, who had married his sister, with whom he was afterwards for several years a partner in business. He was admitted to the Bar in August, 1825, and died at the age of 42, October 5, in the year 1843.

SETH LEE was born in Barre, but did not receive a collegiate education. He was somewhat advanced in life when he began the study of the law, which he pursued, as is understood, in the office of Hon. Jabez Upham, and was admitted to the Bar in 1810. He established himself in business in Barre, where he remained till his death, in March, 1841.

JACOB MANSFIELD was born in Lynn, was awhile a member of Harvard University, but did not graduate. He studied law for a time with Judge Putnam, in Salem. He settled in Western (now Warren), but left there and went to the City of New York, where it is supposed he died.

WILLIAM PERRY was born in Leominster, April 15, 1786, was never graduated at College, studied his profession with the Hon. Abijah Bigelow, and established himself in business in his native town, having been admitted to the Bar in August, 1813. He died in August, 1844, at the age of 58.

RUFUS PUTNAM was born in Warren, then Western, and was graduated at Williams College in 1804. He settled in the practice of his profession in Rutland, where he resided till his death, January 18, 1847, at the age of 64.

HON. NATHANIEL PAINE was born in Worcester, and was graduated at Harvard in 1775. He studied law with Hon. John Sprague, of Lancaster, and was admitted to the Bar in 1781. He began business in Groton, but after four years removed to Worcester, where he resided during the remainder of his life. He held the office of County Attorney for some time, and in 1801, was appointed Judge of Probate for the County of Worcester. This office he held for thirty-five years, and died October 7, 1840, at the age of 82.

WILLIAM PRATT was born in Shrewsbury, was graduated at Brown in 1825, studied law with Judge Merrick, and began business in Shrewsbury. He remained there till 1835, when he removed to Worcester, and formed a professional connection with Judge Merrick, which continued for a short time. He died February 2, 1839.

WARREN RAWSON was born in Mendon, and was graduated at Brown in 1802. He studied law a part of the time with Judge Bangs, and a part of the time with Hon. S. Hastings. He began business in Mendon, where he remained till his death, June 17, 1848, aged 71.

HON. WILLIAM STEDMAN was graduated at Harvard in 1784. He was admitted to the Bar in Essex, in 1787. He practised

law in Lancaster, and in 1803 was elected to Congress, of which body he was a member till 1810. In the latter year he was appointed Clerk of the Courts for this county, which place he held, with the exception of one year, till 1816. He then resumed his profession in Charlton, but afterwards removed to Lancaster. He died at Newburyport, in September, 1831, at the age of sixty-six.

THOMAS POPE was born in Dudley, and was graduated at Brown University, in 1809. He settled in business in Dudley, where he resided till his death, March 7, 1854, at the age of sixty-six.

HON. ONSLOW PETERS. Since the preparation of the address of which these notices form an appendix, the death of Judge Peters has been announced. He was born in Westborough, March 1, 1803, was graduated at Brown, in 1825, and studied law partly with Judge Howe and Hon. Mr. Mills, at Northampton, and partly with Hon. Samuel Hoar. He was admitted to the Bar in Middlesex, in September, 1828, and soon after commenced business in Westborough. After residing there several years, he removed to Peoria, Illinois, and at the time of his death, held the office of Circuit Judge of the 16th Circuit of that State. He died at Washington, February, 1856.

HENRY PAINE was a son of Judge Paine, and born in Worcester. He entered Yale College, but did not graduate. He studied law with Samuel M. Burnside, Esq., and commenced business in Worcester, where he resided till his death, in May, 1874.

HON. MOSES SMITH was admitted to practice at Worcester, December Term, 1802, and commenced practice in Lancaster, which he abandoned after a period of twenty-three years. He continued to reside there, however, till his death, June 29, 1835,



at the age of 58. He was never graduated at any college. He was a member of the Senate from Worcester from 1814 to 1816.

JONAS L. SIBLEY was born in Sutton, the son of Hon. Jonas Sibley. He was graduated at Brown in 1813, and studied law with Hon. Levi Lincoln. He settled in business in Sutton, and remained there till 1834, when he was commissioned as U. S. Marshal for the District of Massachusetts. He held this office eight years, and then returned to Sutton, but never resumed his profession. After several years of ill health, he died, February 1, 1852, at the age of 61.

HEMAN STEBBINS was born in West Springfield, was graduated at Yale in 1814. He practised law for several years in Brookfield, but abandoned it for the profession of a Civil Engineer some years before his death, which took place November, 1838.

SIMEON SAUNDERSON never received a collegiate education. He was admitted to the Bar in 1820, and practised law in Westminster. He died in July, 1842.

HON. GEORGE A. TUFTS was born in Dudley, the son of Hon. Aaron Tufts, February 22, 1797. He was graduated at Harvard in 1818, was for one year and a quarter a member of the Law School at Cambridge, and studied law one year with Hon. Josiah J. Fisk, and the balance of the three years with Hon. Levi Lincoln. He was admitted to the Bar in Worcester, December, 1821, and entered upon the practice of the profession in Dudley, where he resided until his death, December 25, 1835, at the age of 38.

He was a Senator from Worcester for the year 1835.

HON. BEZALEEL TAFT, Jr., was born in Uxbridge, the son of Hon. Bezaleel Taft, and was graduated at Harvard in 1804. He commenced practice in Uxbridge, and resided there till his death, in 1846, at the age of 66.

He was a Senator from Worcester for two years, having been elected in 1825, and was afterwards a member of the Executive Council.

HON. LOVELL WALKER was born in Brookfield, was graduated at Dartmouth in 1794. He was admitted to practice in 1801, settled in Templeton, and practised his profession there for many years, but removed to Leominster a short time before his death, which took place March 25, 1840, at the age of 72.

He was a member of the Senate during the years 1830 and 1831.

OTIS C. WHEELER was born in Worcester, and studied law with Messrs. Davis and Allen, and was admitted to the Bar in 1830. He died at St. Augustine, Florida, having been in business for a year or two in Worcester, February 6, 1831, at the early age of 23.

WALTER A. BRYANT was born in New Salem, but was never graduated at any College. He studied law with Aaron Brooks, Esq., and practised his profession in Barre, until about two years before his death, when he removed to Worcester and opened an office there. He died in Paris, having reached there on a journey for his health, in the Spring of 1850.

ALLEN BANGS was born in Springfield, and began business there. He opened an office in Worcester for a short time, but was compelled by ill health to abandon the profession. He was graduated at Yale in 1846, and died at Springfield, November 24, 1853.

WILLIAM M. TOWNE was born in Charlton, the son of Hon. Salem Towne, was graduated at Amherst in 1825, and studied law with Hon. John Davis and Hon. Charles Allen while partners, and was admitted to the Bar in 1828. He commenced business in Worcester where he remained till 1835, when he gave

up the profession for other business. He resided at Springfield for some time previous to his death, which took place, April 20, 1841.

EDWARD J. VOSE was born in Augusta, Maine, and was graduated at Bowdoin College in 1825. He studied law with Messrs. Davis and Allen, and was admitted to the Bar in 1828. He opened an office soon after in Worcester, and died May 25, 1831, at the age of 25.

HARRY WOOD was born in Grafton. He did not receive a collegiate education. After being admitted to the Bar, he practised for some time in Maine. He afterwards returned to Grafton where he remained in the practice of his profession till his death, in August, 1838.

EDWARD CLARK was born in Charlton, and studied law with J. L. Sibley, in Sutton, where he afterwards practised law for several years. He removed to Worcester, and was in the practice of his profession there at the time of his death, which took place on a journey in the Western States in the Summer of 1849.

ANDREW J. DAVIS was born in Northborough in 1815, and studied law with his brother, Hon. Isaac Davis, with whom he formed a connection in business upon his admission to the Bar in 1834. After about a year, he removed to St. Louis, where he continued in practice till his death, in June, 1840. He was attacked by a ruffian, by the name of Darnes, in the streets of St. Louis, in consequence of an article published in the *St. Louis Republican*, of which he was the proprietor, which resulted in his death.

ELISHA FULLER was born in Princeton, was graduated at Harvard in 1815, and studied theology. He afterwards studied law, and commenced business in Concord. After a few years

residence there, he removed to Lowell, and continued in practice there until his removal to Worcester, in 1844, where he resided till his death, which took place very suddenly, March 18, 1855, at the age of 63.

FREDERICK W. GALE was born in Northborough, and was graduated at Harvard in 1836. He was a member of the Dane Law School in 1838, and having completed his preliminary studies with Hon. Isaac Davis, he formed a connection in business with him, till 1840, when he established himself in business in St. Louis, from whence he removed in a few years to Worcester. Here he remained, with the exception of a few years absence in Europe, until his death, in October, 1854, having been lost in the wreck of the *Arctic* Steamer, on his passage home from Liverpool.

ELISHA HAMMOND was graduated at Yale College in 1802. He pursued the practice of his profession, after his admission to the Bar in 1806, in Brookfield. He was absent a few years in New York, engaged in editing new editions of works on law, and was himself the compiler of a work upon the duties of Justices. The last few years of his life he resided in Brookfield, in what is now West Brookfield, and died May 12, 1851, at the age of 70.

BENJAMIN F. NEWTON was never graduated at college. He studied his profession with Hon. Benj. F. Thomas, and Hon. Edward Dickinson, and was admitted to this Bar in 1850.

Upon the formation of Worcester County into a separate district in 1852, he was appointed District-Attorney, and held the office till his death, which took place March 24, 1853, at the age of 32.

ANDREW D. MCFARLAND was born in Worcester, was graduated at Union College in 1832, and studied his profession with

Messrs. Davis and Washburn in Worcester. He commenced business in Worcester upon his admission to the Bar in 1835, and died June 23, 1836, at the age of 25.

MARTIN L. STOW never received a collegiate education. He was in practice for a while in Southborough, and afterwards removed to Northborough, where he resided till his death in June, 1843.

GEORGE G. PARKER practised his profession in Ashburnham. He died April, 1853.

AMOS W. STOCKWELL was born in Sutton. He was a member of the Dane Law School in 1835, and completed his studies in the offices of Hon. Ira M. Barton and Hon. Isaac Davis. He was admitted to the Bar in 1837, and established himself in Worcester, where he remained a few years, when he removed to Chicopee, where he continued to practice in his profession till his death, 1853.

ABEL WHITNEY was graduated at Williams in 1810. Though regularly bred to the profession, he engaged in the business of a teacher in Boston for many years.

He removed to Harvard several years before his death, and engaged somewhat in practice as a lawyer. He died May 30, 1853.



## A P P E N D I X

PREPARED SINCE THE ADDRESS OF JUDGE FOSTER, BY THE COMMITTEE.

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The following brief notices of persons who died since the address of Gov. Washburn and previous to the address of Judge Foster, and are not specially noticed in the last address, have been prepared for this volume:—

JOSEPH WILLARD was born at Cambridge, Mass., March 14, 1798. He was the youngest son of Samuel Willard, then president of Harvard College. His studies preparatory to entering college were pursued at Cambridge and Exeter. He was graduated at Harvard College in 1816, and subsequently studied law at Amherst, N. H., and in the Law School at Cambridge, and was admitted to the bar in 1819. He commenced the practice of law in Waltham, Mass., but removed from that place to Lancaster, Mass., in 1821, where he remained actively engaged in the practice of law during the succeeding ten years. During this period he prepared with great care a history of that town, and delivered before the members of the Bar of the County the admirable address contained in this volume.

While residing in Lancaster he took an active interest in the affairs of the town, and in 1828 and 1829 represented it in the State Legislature.

In 1830 he was married to Miss Susanna H. Lewis, of Boston, and soon after removed to that city and established himself in his professional business, which he continued till 1840, when he accepted the joint appointment with George C. Wilde, Esq., to the

office of Clerk of the Courts for Suffolk County. By mutual arrangement between them, Mr. Willard undertook the clerkship of the Court of Common Pleas. He continued to perform the duties of this office during the remainder of his active life, although during the period of his official service the Court was twice changed in its name and organization. He was perfectly familiar with the law relating to practice in the Courts of the State, and his opinion on questions connected with it was an authority. In 1829 he became a member of the Massachusetts Historical Society, and retained his connection with it till the time of his death. From 1835 to 1857 he held the office of its Recording Secretary, and from 1857 to 1864 was its Corresponding Secretary, the duties of both of which offices he performed with promptitude and the unfailing courtesy which ever distinguished him.

Mr. Willard had a taste for literary pursuits and antiquarian research, and his works show that he was a writer of no ordinary merit. He contributed several very able articles to the *American Monthly Review*, a magazine of high tone, and at the time of his death was engaged in writing a life of Gen. Henry Knox, a work which remains unfinished. A letter which he wrote to an English friend during the second year of the late war discussed the issues of the day with so much force and clearness that his friend caused it to be published in a leading English paper, and it was subsequently published and extensively circulated in this country.

Mr. Willard died May 12, 1865. The last labor of his life was the preparation of a brief memoir of his eldest son, Major Sidney Willard, who fell at the battle of Fredericksburg.

ABIJAH BIGELOW was born in Westminster, Mass., December 5, 1775; was graduated at Dartmouth College in 1795; was admitted to the Bar in 1798, and afterwards practised law in Leominster, Mass., till 1817, when he removed to Worcester. He was



appointed Clerk of the Courts for the County of Worcester and held the office till 1834. He then resigned it and resumed the practice of law in Worcester. While a resident of Leominster he was twice elected to represent that town in the State Legislature, and he represented his district in the Congress of the United States two successive terms, from 1811 to 1815. Mr. Bigelow continued in the practice of law until the infirmities of age compelled him to relinquish it. He was an industrious and accurate lawyer, a man of staunch integrity and strict morality. He died April 5, 1869, at the advanced age of ninety-five, and left no stain on the record of his long life.

JARED WEED was born in 1783, near the city of New York; was brought up on a farm; was graduated at Harvard College in 1807; was for a time teacher of a High School in Lancaster; was admitted to the Worcester Bar in 1810, and immediately after that established himself in the practice of law at Petersham, where he continued in practice while health and strength permitted. He was much employed as a Conveyancer and as a Justice of the Peace. Was Town Clerk of Petersham for thirty years, and was for many years chairman of the County Commissioners. He held successively the offices of Captain and Colonel in the State militia. He was a careful and accurate lawyer and possessed of sound judgment and good common sense, and in every position which he held performed his duty with entire fidelity. He died in 1857.

Hon. LINUS CHILD was born at Woodstock, Conn., February 27, 1802. He was graduated at Yale College in 1824, and then became a member of the Law School in New Haven, Conn. The last year of his preparation for the Bar he spent in the office of Hon. George A. Tufts, in Dudley, Mass. Was admitted to the Bar in Worcester County and immediately commenced practice in Southbridge. After continuing in his profession there about eighteen years, he removed to Lowell in 1845 and took the agency

of the large corporation there known as the Boott Mills, where he continued about seventeen years, and then removed to Boston in 1862 and resumed the practice of the law, in which he continued till the time of his decease, August 26, 1870. While residing in Southbridge he was elected six times to the State Senate as a Senator from Worcester County, and was an able and influential member of that body. As chairman of the Committee on Railroads he did good service to the State, in framing the laws in relation to those institutions and the charters of several railroads. Mr. Child was an able counsellor and advocate. He was a man of large stature and dignified presence, and was influential with a jury by reason of his apparent fairness and honesty of purpose. He took an active part in politics and was much esteemed for his practical wisdom and sound judgment.

SAMUEL SWAN was born in Leicester, May 6, 1778, graduated at Harvard University in 1799, and studied law with Judge Paine, of Worcester. He practised law in Hubbardston about fifty years; was a thorough student, a safe counsellor and of strict professional integrity. He died September 27, 1863, in his eighty-sixth year, at the residence of his son, George Swan, in Worcester.

JESSE W. GOODRICH was born in Pittsfield, Mass., in 1808; was graduated at Union College, N. Y., 1829; was admitted to the Bar in Worcester in 1833. He practised law there for several years. From 1833 to 1836 he was a partner of David T. Brigham. He was an early and uncompromising advocate of the cause of temperance, and was at different times the editor and proprietor of three different journals published in Worcester devoted to the cause of total abstinence—the *Worcester Waterfall*, the *Worcester County Cataract*, and the *Washingtonian*—all of which were finally merged in one. Mr. Goodrich died in 1857.

JOSEPH THAYER, the subject of this sketch, was born in Douglas in 1792. Entered Brown University in 1811 and graduated in the class of 1815.

He studied law with Hon. Levi Lincoln, in Worcester, and with Hon. Bezaleel Taft, Jr., in Uxbridge, was admitted to practice in 1818 and at once commenced practice in Uxbridge, which town he made his home during a long and useful life. He married, soon after commencing business, Chloe Taft, a daughter of the Hon. Bezaleel Taft, of Uxbridge, with whom he lived happily for many years.

Mr. Thayer was often called to offices of honor and trust, and served the town repeatedly and well in the various town offices. He also represented the town several years in the General Court, and was a delegate to the Constitutional Convention for the revision of the State Constitution. A man of good legal ability and general business capacity. He died January 9, 1872, at the residence of his son-in-law, Hon. Henry Chapin, in Worcester. In the latter part of his life, on account of ill health, he retired to the quiet and rest of his farm, with a large competence.

ISAAC STEVENS was born in Wareham, Mass., April 12, 1792; was admitted to the Bar about the year 1821, and commenced the practice of law immediately after that in Middleborough. In 1837 he removed to Athol, Mass., where he continued in the practice of his profession until within a few months of his death, which took place September 6, 1866.

He represented the town of Middleborough in his younger days, and later in life the town of Athol, in the State Legislature. He enjoyed in a large degree the respect and esteem of his associates at the Bar and the community at large. He was an honest man and a safe and judicious counsellor.

BENJAMIN D. HYDE was born in Sturbridge, February 8, 1803. He obtained his early education in the public schools of his native

town, and until 1828 was connected with the business of farming and teaching. January 1, 1828, he entered the Law School at Northampton and remained there, being a part of the time a student in the office of Bates and Dewey, until March, 1831, when he was admitted to the Bar of the Court of Common Pleas at Northampton. In May, 1831, he commenced practice in Southbridge and remained there until April, 1840, when he returned to Sturbridge and continued the practice of his profession there till his death, November 2, 1869. Besides holding many offices in Southbridge and in Sturbridge, he represented Southbridge twice and Sturbridge once in the State Legislature, and was also elected a member of the Constitutional Convention of Massachusetts in 1853.

ALBERT S. INGALLS was born in Rindge, N. H., December 29, 1830. He studied law in the offices of Hon. Charles R. Train, of Framingham, Mass., of Wood and Bailey, and of Norcross and Snow, of Fitchburg, Mass.

Was admitted to the Bar at Worcester, February 9, 1858, and immediately commenced the practice of law, in partnership with Hon. J. W. Mansur, of Fitchburg. In 1859 he removed to West Cambridge, now Arlington, Mass., where he was successfully engaged in professional labors until he entered the army. Shortly after the outbreak of the rebellion he raised a company of volunteers for the Federal service, but when this company was ready to march the quota of soldiers required from Massachusetts was full. Unwilling to tolerate the idea of disbanding his company, he promptly offered the services of himself and company to the State of New York. They were accepted and mustered into the fortieth New York Volunteers.

“Soon after the battle of Williamsburg, in which he bore a gallant part, eliciting for his heroism and soldierly bearing the warm-

est approbation of his superiors in command, he was promoted to the office of Major of the regiment.”

June 30, 1862, in one of the battles before Richmond, he received a wound, which rendered necessary the amputation of one of his legs, from the effects of which he died, August 11, 1862.

Previous to his death he received a written expression of the esteem of his fellow-townsmen, passed in town meeting, July 22, 1862, and placed upon the town records, testifying to his “patriotic zeal, lofty courage and daring before the enemy.”

His remains were brought to West Cambridge, where they were received with every demonstration of respect and affection, the places of business being closed and the flags at half-mast.

JOHN H. MATHEWS was born at Worcester, Mass., in 1826. Fitted for college at Amherst Academy; was in Amherst College two years, left the college in 1845, and commenced the study of law in the office of Hon. Isaac Davis. He finished his law studies in the office of Granville Parker, was admitted to the Bar in 1848, and became at law partner of Mr. Parker. He was appointed District-Attorney by Governor Gardner in November, 1855, and retained the office until his death, July, 1856.

JOHN HENRY STOCKWELL was born in Webster, April 10, 1838, and died December 14, 1875. He was educated at Dudley Academy and Wilbraham Academy, and read law at Worcester, in the office of Messrs. Bacon and Aldrich, for about one year, and afterwards was a student for two years in the Law School at Albany, N. Y. He was admitted to practice there in 1859. He then returned to his native town, was admitted in Worcester, and practised his profession there the rest of his life. He held for several years the office of Trial Justice and other local offices.

JOSEPH B. COOK was born in Cumberland, R. I., in 1837. He attended the schools of his native town and for a time the High

School at Providence. He studied law with Hon. Christopher Robinson, of Woonsocket, R. I., and at the Albany Law School, of which he was a graduate. He was admitted to the Bar in Worcester County, and practised law in Blackstone until his death, December 14, 1863.

JEROME B. BOLSTER was born in Uxbridge, Mass. He studied law in the office of S. A. Burgess, Esq., of that town. He was admitted to the Bar, January, 1865, and commenced practice in Blackstone. He died October, 1866.

WILLIAM L. SOUTHWICK was born in Waterford Village, Mendon, May 17, 1827. Besides the schools of his native village, he attended the academies at Smithfield and Scituate, R. I. He studied law with Hon. Isaac Davis, at Worcester, and was admitted to the Bar in April, 1848. He opened an office in Hopkinton in 1850, but removed to Blackstone in 1851, where he remained in practice until his health failed him in 1866. He died at Worcester, February 4, 1867.

DANIEL STEARNS, was born in Fitchburg, Mass., April 11, 1831; graduated at Dartmouth College in 1855, studied law in the office of T. K. Ware, Esq., of Fitchburg, and was admitted to the Bar at Fitchburg, April 5, 1859. He died January 31, 1868.

WILLIAM E. BROWN was born in Sidney, Maine, in 1831; was graduated at the Law School in Albany, N. Y., in 1868; was admitted to the Bar soon after that; practised law a short time in Fitchburg; left that place in 1869, and died at Lincoln, Nebraska, in 1870.

He was in the military service of the United States, in the third Maine regiment, three years, during the late civil war, and was wounded in both arms and both legs.

AARON LYON was born in Southbridge, August 14, 1824, and died in Sturbridge, August 22, 1858. He was graduated at Yale

College in 1849. After graduating, he remained one year in the Law School at New Haven, when he returned to his native place and studied law in the office of Benjamin D. Hyde, Esq., and was admitted to practice at Worcester in September, 1851. He opened an office in Sturbridge and continued his practice there until his decease. During this period he held many local offices, and was held in high respect for his professional attainments.

GEORGE A. WETHERELL was born in Oxford, Mass., August 30, 1825, was graduated at Yale College in 1848; studied law at Worcester in the office of his brother, Col. John W. Wetherell. He was admitted to the Bar in 1851, and then entered into partnership with his brother in the practice of law, and retained that connection till his death in September, 1858. He was a gentleman of strict integrity, courteous and affable in his manners, of good natural abilities and creditable attainments.

MILTON WHITNEY, a native of Ashburnham, Mass., was born in 1823. At the schools in his native town at an early age he gave indications of superior talent. While quite young, he commenced the study of law in the office of Hon. Nathaniel Wood, of Fitchburg, Mass., and remained a student in his office until he was admitted to the Bar, in 1845. He then commenced the practice of law in Fitchburg, and continued in practice there till 1850, when, in consequence of the failing health of his wife, he removed to Baltimore, Md., to secure for her the benefit of a milder climate. He opened an office in Baltimore, and very soon secured a lucrative business, and rose rapidly to eminence in his profession.

In 1853, he was elected State Attorney for the City of Baltimore, which office he held for six years, and the duties of which he discharged with ability and credit to himself. It was during his official term that that city passed through that period of reckless lawlessness then spoken of as the reign of terror, in conse-

quence of which great labor and responsibility were thrown upon Mr. Whitney as the prosecuting officer of the city ; and he proved himself every way equal to the labor, responsibility and dangers of his position. Mr. Whitney was engaged as leading counsel in many important cases, civil and criminal. He had a high reputation as an advocate and as a skilful and astute lawyer. In the summer of 1875 he came to his native town, in the hope to restore his impaired health, but without avail. He died there, September 3, 1875, at the age of fifty years.

APPLETON DADMUN was born in Marlborough, Mass., July 21, 1828. He was fitted for college at Wilbraham Academy; entered Amherst College in 1850; graduated in August, 1854; studied law with Hon. Henry Chapin, of Worcester, and was admitted to the Bar February 3, 1857. He practised law in that city. Delicate health compelled a partial relinquishment of business in the spring of 1868, and in February, 1869, he was obliged to abandon it entirely. He then removed to Minneapolis, Minn., where he died of consumption, November 2, 1869. He left a wife and one daughter.

Mr. Dadmun was a man of clear perceptions, strong common sense and sound judgment; honorable in his dealings with men and courteous to all. He devoted himself diligently and faithfully to the duties of his profession, was a good lawyer, and never neglected the interests of his clients.

CHARLES A. HOLBROOK was born at Grafton, Mass., December 6, 1821. In early life he was engaged in trade in several places. He afterwards studied law in Worcester, and was admitted to the Bar there in December, 1858, and practised law in that city till his last sickness. He died in May, 1876.

WILLIAM ELIJAH GREEN, great-grandson of Captain Samuel Green, one of the founders of Leicester, and son of Dr. John Green, the first, of Worcester, was born at Green Hill, in Wor-



cester, January 31, 1777. He was married four times, and by the first three marriages had eleven children. Mr. Green was graduated at Brown University in 1798, and studied law with Judge Edward Bangs, of Worcester. He was admitted to the Bar in 1801, and began to practice at Grafton, where he resided for a short period. Returning to Worcester, he became a partner in the practice of the law with Judge Bangs. This partnership continued until the appointment of the latter gentleman to a place on the Bench, in 1811. Mr. Green was afterwards connected in the law practice with Edward D. Bangs, Esq., until 1816. As a lawyer, he is represented as well read and as astute in developing the strong points of causes intrusted to him. During the latter portion of his life Mr. Green was not in active practice. He continued to reside at his farm, at Green Hill, upon which were exhibited the results of a marked fondness for farming. Mr. Green was one of the foremost promoters of the Blackstone Canal. He was for many years Captain of the Worcester Light Infantry and a volunteer of the war of 1812. He was one of the earliest advocates of the temperance reform, and a zealous worker for the establishment and elevation of the public schools. He was affable to those of all conditions. He died at Green Hill, at the age of eighty-eight years, in the room in which he was born, and is remembered as a man of great geniality and cheerfulness.

CHARLES DELANO BOWMAN was the son of Hon. Joseph Bowman, a successful merchant in New Braintree, Mass.; was born in 1816; graduated at Harvard College, 1838; studied law in Worcester with Hon. Emory Washburn and Francis H. Dewey from 1842 to 1845, in which last year he was admitted to the Worcester Bar. He then established himself at Oxford, where he enjoyed a successful practice and was highly esteemed. November 24, 1846, he married Marian Louise, the daughter of Elnathan

Jones, Esq., whose death preceded his. Mr. Bowman died January, 1857. He had collected a large and valuable library, both law and miscellaneous. He devised his law library to the Law Library Association of Worcester County, and a large portion of his miscellaneous library to the American Antiquarian Society.

WILLIAM NELSON GREEN, son of William Elijah Green, was born in Milford, February 23, 1804. He married, February 23, 1839, Sarah Munroe Staples (*nee* Ball), of Northborough, by whom he had five children, one of whom was Lieutenant-Colonel William Nelson Green, Jr., who was killed in the late war. He pursued his professional studies with Samuel M. Burnside, Esq., and was admitted to the Bar, at Worcester, in 1827. He was appointed Judge of the Worcester Police Court at its organization in 1848, and occupied that position until the abolition of the Court in 1868, a period of twenty years. Before his appointment as Judge, he had, as Justice of the Peace, a very large proportion of the criminal business of the Town of Worcester and much of that of the County, by a very general consent of the members of the Bar. He was an extensive reader, much interested in genealogical investigations and in natural history, on which latter subject he had gathered one of the best private libraries in the State. He was an untiring practical sportsman, very skilful with firearms, and had an extensive knowledge of game, contributing much to the literature of sporting. Judge Green was at one time editor of the *Worcester Ægis*. He died, at his farm in Worcester, December 6, 1870.

CHARLES G. PRENTISS was born in Leominster, October 1, 1778. Practised law in Oxford and in Worcester, Mass.; was appointed Register of Probate for the County of Worcester in July, 1837, and held that office till 1859. He was accurate and careful in the

discharge of his official duties, and courteous and accommodating to all who had occasion to do business at his office. He died at Worcester, January 12, 1863.

JAMES OTIS WILLIAMS was born in New Bedford, May 15, 1827; was graduated at Harvard College in 1849; was admitted to the Bar in Worcester in 1853 and practised law in that city a short time. He removed to St. Louis, Mo., and subsequently practised law there. He died in Palestine, Ill., December 27, 1873.

DAVID T. BRIGHAM was born in Shrewsbury, August 5, 1808; was graduated at Brown University; was admitted to the Bar and practised law in Worcester a short time. He engaged in speculation in real estate. In 1834 he was President of the Manufacturers' Insurance Company of Worcester. He afterwards removed to St. Louis, Mo., and from thence to Keokuk, Iowa, where he died about the year 1869.

LEMUEL S. WILLIAMS was born in New Bedford, January 19, 1812; was graduated at Harvard College in 1836; was admitted to the Bar and practised law, first in Dedham and afterwards in Westborough, Mass. He died at St. Louis, Mo., November 16, 1859.

CALVIN WILLARD was born in Harvard, Mass., December 7th, 1784. He pursued the study of law in the office of Hon. Richard H. Dana, in Boston, and was admitted to practice in the Court of Common Pleas in 1809, and in the Supreme Judicial Court in 1812. He commenced the practice of law in Barnstable, but remained there only a short time, and removed to Petersham, where he was in practice a brief period, and then removed to Fitchburg, where he continued in the practice of his profession until he was appointed Sheriff of the county in 1824. Soon after this he removed to Worcester. He held the office of sheriff by successive appointments for about twenty-two years,

during the greater part of the time residing in Worcester. In the latter part of this period for several years he resided in Millbury, but subsequently returned to Worcester and resided there till the time of his death. He died suddenly, Sept. 20, 1867, aged 83 years.

Mr. Willard was a gentleman of the old school. Somewhat formal in his manners, courteous to all, but with a dignified reserve. He was an accurate and careful lawyer and a man of the strictest integrity. He was a model sheriff. Carefully observant of the forms and etiquette of the court, dignified in his bearing, attentive to every official duty, punctilious in everything, he executed the functions of his office in a manner highly satisfactory to the Court, the Bar and the public.

He was twice married. His last wife still lives to enjoy her quiet and hospitable home.

EDWARD HAMILTON was born at Worcester, January 6th, 1812, and received there his early education. He studied law at Worcester in the office of Hon. William Lincoln and was admitted to the Bar in 1835. He practised law for brief periods of time in Millbury, Barre and Worcester, but the duties of the profession were not adapted to his taste and inclination, and he accordingly abandoned it for other pursuits. About the year 1849 he was appointed a clerk in the Worcester County Institution for Savings, a position which he was well calculated to fill and which he held to the time of his death, January 2, 1870. As a composer and performer he possessed musical talents of a high order. His voice was rich and melodious, and he sang with excellent taste and expression. The violin and flute were his favorite instruments, but he was able to perform well on several other musical instruments. He was remarkable also for his accuracy and celerity in mathematical calculations and in the solution of difficult mathematical problems. His memory was so retentive that he could

play a game of chess skilfully without seeing the chess-board by merely being informed of the moves of his adversary. His name was originally Alexander Hamilton. On his application the first name was changed to Edward by the legislature in 1844.

His petition for a change of name was characteristic of him. It contains some good suggestions, and may be of value to the profession as a precedent for such a petition, and will be a suitable close of this sketch. It was addressed to the Legislature, and was as follows:—

“ The petition of Alexander Hamilton, of Worcester, in the county of Worcester, respectfully represents that he is desirous of changing his name to EDWARD HAMILTON, for the following reasons, viz. :—

1st. His present name is inconveniently long, both to write and to speak.

2nd. It is rather too much of a burden for a common sort of man to support the respectability of so renowned a name.

3d. A humble individual like your petitioner is made to feel keenly and bitterly his own unworthiness, every time in the course of business, that he is obliged to disclose his name to a stranger.

4th. No inconvenience of moment will be experienced by other persons, by the change asked for, inasmuch as the petitioner's name is not to be found in tradesmen's or shopkeepers' books connected with unsettled accounts.

5th. The petitioner is intending to publish some musical compositions of his own, and he is unwilling to associate so illustrious a name with inferior productions.

6th. The petitioner believes that the granting his prayer would tend to rebuke the foolish and too prevalent practice of burdening children with high sounding names; among the unhappy and ludicrous consequences of which, we have read in the papers that ‘John Quincy Adams’ was brought up by the watch in some Southern city, charged with being found drunk in the streets at midnight; and ‘Marcus Morton’ was sent to the House of Correction in New York for stealing a box of smoked herrings.

7th. The petitioner wishes to assume the name of EDWARD, instead of Alexander, because—

1st. It is a good name in itself.

2nd. It admits of a convenient and not disagreeable abbreviation.

3d. It is the name which was borne by a relative and near friend, now deceased.

Therefore, your petitioner prays that he may be allowed to take the name of Edward Hamilton.

MERRILL BARLOW was admitted to the Bar in Worcester in January, 1848. He had previously been admitted to practice in

Windham County, Ct., and resided in Woodstock, in that State. He practised law in Southbridge, Mass., from 1848 to 1854, and then removed to Columbus, Ohio, where he resumed the practice of law. In 1862, he was appointed Adjutant-General of the State, an office which he held for several years. The dates of his birth and death are not known to the writer of this notice.

LEMUEL WILLIAMS, who was well known in Worcester, where he passed the last twenty years of his life, came of a long line of honored and legal stock, which was rooted in the old colony in ancient time. He was the only son of the Honorable Lemuel Williams, of New Bedford, who was a graduate of Harvard College in 1765, and a member of Congress from 1800 to 1805. That Lemuel was the son of the Honorable Benjamin Williams, of Taunton, who was judge of the Court of Probate for Bristol from 1778 till his death in 1784; and Benjamin was the son of the Honorable Seth Williams, who was Chief Justice of the old Common Pleas from 1754 to 1761, when he died. And the next preceding ancestor in the line was Samuel, who was the son of Richard Williams, who was the first settler of Taunton.

The Lemuel Williams of this notice was born in 1782, in the town of Dartmouth, before it was set off to New Bedford. He was graduated from Brown University in 1804. After studying for his profession at the Law School in Litchfield, Connecticut, then in high repute, he came to the Bar in 1808, and began practice in New Bedford. He soon rose to a high standing in his profession in Bristol County, acquired a quite large practice, and ranked equally as a safe counsellor and as a popular advocate. He continued in the profession in New Bedford through a period of thirty years, achieving a good reputation for his attainments in the law, for his incisive and telling way of putting his cases to the juries, and for his social disposition, which adapted him to favor among all classes. For several years dur-

ing this period, he successfully represented New Bedford in the Legislature, in which he bore an active part, and was prominent, in the session of 1820, in connection with the passage of the "Act to establish a Court of Common Pleas for the Commonwealth of Massachusetts." In 1829, President Jackson appointed Mr. Williams Collector of the port of New Bedford, which office he held through both the presidential terms of the General. In 1838 he removed to Lowell, where he practised only about two years, subsequently removing his residence to Cambridge and opening his law office in Boston. For some time, at this stage of his life, he was associated as law-partner with the late lamented Isaac O. Barnes—a partnership, it may be presumed, not more of law than of wits, which leaves much that is pleasing to the imagination of all those persons who knew both these gentlemen well. In 1842, he was appointed by President Tyler, Collector of the port of Boston, which office he continued to hold until May, 1845, after President Tyler had retired to private life. Mr. Williams removed to Worcester in 1848, where he practised law about four years. He died there November 16, 1869, at the age of eighty-seven. Mr. Williams was quick in his perceptions, and fluent in speech. His manner in speaking was easy and natural, and he commanded a crisp and dry style of wit which rarely seemed forced. He had a good degree of general information and knowledge. His fondness for social life was made a source of enjoyment to himself and to others by his own genial disposition, and by his excellent powers of conversation. He lived a somewhat varied life, but his versatility and fertility, both of mind and heart, made him equal to all its conditions; and in all situations and to all persons, he seemed ever ready to impart that which was cheerful, not seldom that which was profitable.

CHARLES K. WETHERELL was born at Petersham, Mass., in 1822, entered Yale College, and was a student there two years,

but was not graduated. He studied law in his native town, in Greenfield, and at the Law School at Cambridge, and was admitted to the Bar in 1844. He commenced the practice of law in Petersham, and practised there till 1854, when he removed to Barre, and in the following year—1855—removed to Worcester, continuing the practice of law in each place. He died in 1857.

DANIEL HENSHAW was born in Leicester, was graduated at Harvard College in 1807, was admitted to the Bar and practised law in Winchendon, removed to Worcester in 1830, and practised there till 1832, then removed to Boston and afterwards to Lynn.

GEORGE SPRING TAFT, son of Bezaleel Taft, Jr., was born in Uxbridge, December 26, 1826; was fitted for college in the Uxbridge Academy, and entered Brown University, where he graduated in the class of 1848. Selecting the law for his profession, he entered himself as a student in the office of Hon. Henry Chapin, of Worcester, where he remained until his admission to the Bar in 1851. Soon after this he opened an office in his native town, where he continued in practice until his decease, which occurred February 2, 1860, at the early age of 33 years. Of good natural abilities, improved by cultivation, and well grounded in the learning of his profession, he gave promise of a successful and honorable career. Mr. Taft was of strict integrity, upright in his dealings, manly in his tastes, a good citizen, a safe lawyer, and steadfast friend.

HENRY DWIGHT STONE was born in Southbridge, July 31, 1820, and pursued his studies preparatory to college at the Manual Labor School in Worcester, in 1838-9, and was graduated at Amherst in 1844. He entered upon the study of law with Bacon and Barton, at Worcester, and was admitted to the Bar there in April, 1846. He practised his profession also in that city until October, 1864, and from that date until October,



1869, in New Orleans, La. In 1867, he was admitted to practice before the Supreme Court of the United States. While a resident of New Orleans, he won a high reputation by his services as the solicitor of Mrs. Myra Clark Gaines, in her famous law suits to recover real estate bequeathed to her in that city. Mr. Stone died in the City of New York, October 27, 1869.

JOSEPH W. HUNTINGTON was born in Middlebury, Vt., in 1807. His family removed to Westfield, Mass., when he was quite young and he went there with them. He received his early education principally in the Westfield Academy. He studied law at Lenox, in the office of the late Judge Henry W. Bishop. He was admitted to the Bar, and commenced practice in Lancaster in 1837, and continued in practice many years. He was post-master of that town for several years, and was a director of the Lancaster Bank. He was a gentleman of good ability, agreeable manners and fine personal appearance.

GEORGE R. M. WITHINGTON was a native of Boston, a son of Oliver W. Withington. He was graduated at Middlebury College. After his admission to the Bar he commenced the practice of law in Bolton, but soon after removed to Lancaster and resumed his practice there. In 1837 he accepted the office of cashier of the Lancaster Bank, which office he held till 1843 when he resumed the practice of law, and continued in his professional business until his decease, May 11th, 1858.

EDWARD KIRKLAND was admitted to the Bar at Worcester, at the September Term of the Court of Common Pleas, in 1834, commenced practice in Templeton, and continued in practice there till 1838, when he removed to Battleborough, Vt., where he continued the practice of law till the time of his death. He was a gentleman of considerable ability and an accurate lawyer.

GEORGE G. PARKER was born in Ashburnham in the year 1800, and was graduated at Yale College. Immediately after this he commenced the practice of law in his native town, where he continued to have a successful practice until the time of his decease, in 1852. He was an able and accurate lawyer, and a forcible speaker. His deafness prevented his doing business in court, and attaining distinction at the bar. He possessed strong common sense, and a sound judgment. He took a positive interest in public affairs within the field of his actions, and was highly esteemed for honesty and uprightness in all his dealings.

JUBAL HARRINGTON was born in Shrewsbury, Mass., was graduated at Brown University, admitted to the Bar in 1825. He commenced the practice of law in Worcester in 1828, was editor of the *Worcester Republican* for several years. He was a representative to the General Court in 1831 and 1836. He was appointed postmaster of Worcester in 1833 by President Jackson, and held that office for several years. He engaged actively in politics and was an ardent partisan. He removed from Worcester in middle life and died in Columbia, California, in 1877.

HENRY HOUGHTON WILLIAMS, son of William A. Williams, was born in Worcester, June 8, 1854, was fitted for college in the Worcester High School, and entered Harvard College in 1870, graduating in 1874. He begun the study of law at once in the office of W. A. Williams and John R. Thayer. At the June Term of the Superior Court for Worcester County, in 1876, he entered his petition to be admitted to practice in the Courts of the Commonwealth, and passed a successful examination before a committee appointed by the court to make such examination. Thursday, June 22, had been appointed for his admission to the Bar, but on Tuesday, June 20, while rowing on

Lake Quinsigamond, he was unaccountably thrown from his boat, and before assistance could reach him was drowned.

This sad accident cut short a career of singular promise, and brought testimonials of grief from many friends at home and at college. There was an indefinable charm in his presence, a quiet dignity and manliness in his bearing, which none who knew him can forget. This for years, both at home and at Cambridge, had proved the strength and sweetness of his character; and his examination for the Bar had given his examiners high admiration for his attainments, and enthusiastic anticipations of his success in his chosen calling.

Though his name does not stand on the roll of the Bar, it seems proper that it should be enrolled here among its deceased members.

SAMUEL H. ALLEN was born in Mendon, Mass., in the year 1790, and studied law in his native town. After his admission to the Bar of Worcester County, he commenced the practice of law in that part of Mendon called Millville, now a part of the town of Blackstone, from which place he removed to Grafton, where he resided and pursued his professional labors until his decease, April 21, 1864.



LIST OF MEMBERS OF THE BAR.

In the following list it is intended to give the names of all persons who were members of Worcester Bar October 3, 1878, and of those who had been members of it at any time since the establishment of the County, with the date and place of the birth and graduation of each (if graduated), the date of admission to the Bar, and the place or places where they have practised or resided.

It is not expected that the list will be complete, and there may be some inaccuracies in the details connected with it. Care, however, has been taken to make the table as complete and accurate as possible with the information within reach of the committee.

## LIST OF MEMBERS OF THE BAR.

### EXPLANATIONS.

The \* indicates that the person was dead Oct. 3, 1878; r., removal from the County. The colleges at which persons named were graduated are indicated by initial letters, thus: H. C., Harvard College; B. U., Brown University; A. C., Amherst College; Y. C., Yale College; W. C., Williams College; D. C., Dartmouth College; M. U., Michigan University; W. U., Wesleyan University; U. V., University of Vermont; U. C., Union College; B. C., Bowdoin College; N. U., Norwich University.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Thomas Abbott, r	Canada.		1849	Millbury, Blackstone.
Benjamin Adams,*	Mendon, 1764.	B. U., 1788	1792	Uxbridge.
Henry Adams,*		H. C., 1802		Ashburnham.
Zabdiel B. Adams,*		H. C., 1791		Lunenburg.
P. Emory Aldrich,	New Salem, 1813.		1846	Barre, Worcester.
Charles Allen,*	Worcester, 1797.		1818	New Braintree, Worcester.
Frederic H. Allen,*		U. V., 1823	1818	Athol.
Samuel H. Allen,*	Mendon, 1790.	U. C., 1814		Mendon, Grafton.
Joseph Allen,*	Leicester, 1773.	H. C., 1792	1795	{ Worcester, Warren, Charlest'n, N. H.
Albert H. Andrews,	Waltham, 1829.		1856	{ Nebraska, Minnesota, Ashburnham, Fitchburg.
William S. Andrews, r*	Boston.	H. C., 1812	1817	Spencer, Worcester.
Joshua Atherton,*	Harvard, 1737.	H. C., 1762	1765	Petersham,
Edward Avery, r	Marblehead, 1827.		1849	{ Barre, Worcester, Boston.
Erasmus Babbitt,*	Sturbridge, 1765.	H. C., 1790		{ Charlton, Grafton, Oxford, Sturbridge, Westboro'.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Henry Bacon,	Oxford, 1835.		1859	Worcester,
Peter C. Bacon,	Dudley, 1804.	B. U., 1827	1830	{ Oxford, Dudley, Worcester.
Goldsmith F. Bailey,*	Westmoreland, Vt. 1823		1848	Fitchburg.
Harrison Bailey,	Fitchburg, 1849.	A. C., 1872	1874	Fitchburg.
Charles F. Baker,	Lunenburg, 1850.	H. C., 1872	1875	Fitchburg.
Christ'r C. Baldwin,*	Templeton, 1800.		1826	{ Sutton, Barre, Worcester.
George W. Baldwin, r	New Haven.	Y. C., 1853	1858	Worcester, Boston
Isaac Baldwin,			1853	Clinton.
George H. Ball,	Milford, 1848.	H. C., 1869	1871	Worcester.
George F. Bancroft,*			1874	Brookfield.
James H. Bancroft,	Ashburnham, 1829.		1868	Worcester.
Allen Bangs, r*	Springfield.	H. C., 1827		Springfield, Worcester.
Edward Bangs,*	Hardwick, 1756.	H. C., 1777	1780	Worcester.
Edward D. Bangs,*	Worcester, 1790.		1813	Worcester.
William B. Banister, r*	Brookfield, 1773.	D. C., 1797		Brookfield, Newburyport.
Forrest E. Barker,	Exeter, N. H., 1853.	W. U., 1874	1876	Worcester.
Merrill Barlow, r			1848	Southbridge, Columbus, O.
Frederick J. Barnard,	Worcester, 1842.	Y. C., 1863	1867	Worcester.
L. Emerson Barnes,	Hardwick, 1843.	A. C., 1871	1873	No. Brookfield.
And'w J. Bartholomew	Hardwick, 1833.	Y. C., 1856	1858	Southbridge.
Nelson Bartholomew,*	Hardwick, 1834.	Y. C., 1856	1858	Oxford.
William O. Bartlett, r	Smithfield, R. I.		1843	Worcester, New York.
Ira M. Barton,*	Oxford, 1796.	B. U., 1819	1822	Oxford, Worcester.
William S. Barton,	Oxford, 1824.	B. U., 1844	1846	Worcester.
Ezra Bassett,				New Braintree.
Sumner Bastow,*	Uxbridge.	B. U., 1802.	1811	Sutton, Oxford.
Liberty Bates,*		B. U., 1797		Grafton.
Robert E. Beecher, r	Zanesville, O., 1839.	W. C., 1860	1868	No. Brookfield.
Daniel H. Bemis,	Billerica, 1831.		1860	Clinton.



NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Abijah Bigelow,*	Westminster, 1775.	D. C., 1795	1817	Worcester, Leominster.
Daniel Bigelow,*	Worcester, 1752.	H. C., 1775	1780	Petersham.
Lewis Bigelow,*	Petersham.	W. C., 1803		Petersham, Peoria, Ill.
Tyler Bigelow,*		H. C., 1801		Leominster, Waltham.
Arthur G. Biscoe,	Grafton.	A. C., 1862	1864	Westborough.
J. Foster Biscoe, r	Grafton.	A. C., 1874	1877	
Jason B. Blackington, r		B. U., 1826		Holden.
Francis T. Blackmer,	Worcester, 1844.		1867	Worcester.
Francis Blake,*	Rutland, 1774.	H. C., 1789	1794	Rutland, Worcester.
Jesse Bliss,*	Brimfield.	D. C., 1808	1812	W. Brookfield.
Daniel Bliss,*	Concord, 1740.	H. C., 1760	1765	Rutland, Concord.
William Bliss,*		H. C., 1818		Athol.
Jerome B. Bolster,*	Uxbridge.		1865	Blackstone.
Frederick W. Botham,	Charlton, 1811.		1835	Southbridge, Douglas.
Frederick W. Bottom,*	Plainfield, Ct., 1785.	B. U., 1802		{ Charlton, Southbridge, Sturbridge, Westborough.
Lewis H. Boutelle, r				
Charles D. Bowman,*	New Braintree, 1816.	H. C., 1838	1845	Oxford.
Lucian C. Boynton,*			1847	Worcester,
Samuel Brazer,*	Worcester, 1785.			Worcester.
Benjamin Bridge,				Uxbridge, Winchendon.
O. L. Bridges, r*	Calais, Me.			Boston, Worcester.
William H. Briggs,	Andover, 1855.		1876	Worcester.
David Brigham, r*	Shrewsbury, 1786.	H. C., 1810		{ Fitchburg, Leicester, N. Braintree, Shrewsbury.
David T. Brigham, r	Shrewsbury, 1808.	U. C., 1828	1831	Worcester.
Chas. Brimblecom,	Sharon, 1825.		1848	Barre.
Aaron Brooks,*	Petersham.	B. U., 1817		Petersham.
Calvin M. Brooks, r		Y. C., 1847	1848	{ Worcester, Boston, N. Ashland, ct.
Francis A. Brooks, r	Petersham, 1826.	H. C.	1845	Petersham, Boston.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Bartholomew Brown,*		H. C., 1799		Sterling.
Luke Brown,*		H. C., 1794		Hardwick.
William E. Brown,*	Sidney, Me., 1831.		1868	Fitchburg.
Nahum F. Bryant, r	New Salem, 1810.		1835	Barre, Bangor, Me.
Walter A. Bryant,*	New Salem, 1817.		1839	Barre, Worcester.
Alexander H. Bullock,	Royalston, 1816.	A. C., 1836	1841	Worcester.
Augustus Geo. Bullock,	Enfield, Ct., 1847.	H. C., 1868	1875	Worcester.
Gardner Burbank,		B. U., 1809		Worcester.
Silas A. Burgess,	Goshen, 1826.		1852	Blackstone, Worcester.
Henry M. Burleigh, r				Athol.
Samuel M. Burnside,*	{ Northumberland, N. H., 1783. }	D. C., 1805	1810	Westborough, Worcester.
Stillman Cady,				Templeton.
Joseph B. Caldwell,*	Rutland.	H. C., 1802		{ Grafton, Rutland, Worcester.
William Caldwell,*		H. C., 1802		Rutland.
George W. Cann,	Easton, Pa., 1849.	Pa. C., 1869	1872	Fitchburg.
Chauncey W. Carter,	Leominster, 1827.		1857	Leominster, Gardner.
Nathaniel Chandler,*	Worcester, 1750.	H. C., 1768	1771	Petersham, Worcester.
Rufus Chandler,*	Worcester, 1747.	H. C., 1766	1768	Worcester.
Henry Chapin,	Upton, 1811.	B. U., 1835	1838	Uxbridge, Worcester.
Linus Child,*	Woodstock, Ct., 1802.	Y. C., 1824	1826	Southbridge, Boston.
F. Linus Childs,	Millbury, 1849.	B. U., 1870	1873	Worcester.
Chas. W. Clark,	Worcester, 1851.	Y. C.,	1876	Worcester.
Edward Clark,*	Charlton.			Sutton, Worcester.
Henry J. Clarke,				Webster.
Samuel Clark,	Dedham, 1809.	B. U., 1836	1841	Northborough.
Peter Clarke,*		H. C., 1777		Southborough.
John M. Cochran,	Pembroke, N. H., 1849.		1870	{ Palmer, Southbridge.
John B. D. Cogswell, r	Yarmouth, 1829.	D. C., 1850	1853	{ Worcester, Milw'kee, Wis. Yarmouth.
Joseph B. Cook, r	Cumberland, R. I., 1837		1860	Blackstone.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Edwin Couant,	Sterling, 1810.	H. C., 1829	1832	Sterling, Worcester.
John W. Corcoran,	New York, 1853.	H. C., 1875	1875	Clinton.
Mirick H. Cowden,	Rutland, 1846.		1875	Worcester.
Austin P. Cristy,	Morristown, Vt., 1850.	D. C., 1873	1874	Worcester.
Samuel M. Crocker,*		H. C., 1801		Douglas, Uxbridge.
Amos Crosby,*	Brookfield, 1761.	H. C., 1786	1804	Brookfield.
Eph. M. Cunningham,*		H. C., 1814		{ Ashburnham, Lunenburg, Sterling.
Albert W. Curtis,	Worcester, 1849.	Y. C., 1871	1873	Worcester, Spencer.
Elisha P. Cutler,		W. C., 1798		Hardwick.
Samuel Cutting,*		D. C., 1805		Templeton.
Appleton Dadmun,*	Marlborough, 1828.	A. C., 1854	1857	Worcester.
John T. Dame,	Orford, N. H., 1817.	D. C., 1840		Clinton, Marlborough.
Richard H. Dana,*	Cambridge, 1787.	H. C., 1808	1811	Sutton.
John A. Dana,	Princeton, 1823.	Y. C., 1844	1848	Worcester.
Mat. (Jas.) Davenport,		H. C., 1802		Boylston.
Andrew J. Davis, r *	Northborough, 1815.		1834	Worcester, St. Louis, Mo.
Andrew Mc F. Davis,	Worcester, 1833.		1859	{ Worcester, New York, S. Francisco.
Edward L. Davis,	Worcester, 1834.	B. U., 1854	1857	Worcester.
George Davis,*				Sturbridge.
Isaac Davis,	Northborough, 1799.	B. U., 1822	1825	Worcester.
James R. Davis,	Boston, 1816.		1869	Milford.
John Davis, Jr.*	Shirley.			Lancaster, Charlton.
John Davis,*	Northborough,	Y. C., 1812	1815	{ Northboro', Spencer, Worcester.
John C. B. Davis, r	Worcester, 1822.	H. C., 1840	1844	Worcester, New York.
William S. Davis, r	Northborough, 1832.	H. C., 1853	1855	Worcester.
John E. Day,	Killingly, Ct., 1851.	A. C., 1871	1874	Worcester.
Francis Deane,	Shrewsbury, 1804.	B. U., 1826	1830	{ Southboro'. Uxbridge, Worcester.
Frederick B. Deane,	Uxbridge, 1840.		1866	Worcester.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Austin Denny,*	Worcester, 1795.	Y. C., 1814	1817	Harvard, Worcester.
Nath'l P. Denny, r *	Leicester, 1771.	H. C., 1797		Leicester.
Charles Devens,	Charlestown, 1820.	H. C., 1838	1840	Greenfield, Worcester.
Charles A. Dewey, Jr.	Northampton, 1830.		1859	Milford.
Francis H. Dewey,	Williamstown, 1821.	W. C., 1840	1843	Worcester.
Samuel Dexter,*		H. C., 1781	1784	Lunenburg.
Thomas H. Dodge,	Eden, Vt., 1823.		1852	{ Nashua, N.H. Washington, Worcester.
Sam'l W. Dougherty, r	Worcester, 1848.		1876	Worcester.
Nathan T. Dow, r		D. C., 1826		Grafton.
J. W. Draper, r			1851	Worcester.
Jno. Danforth Dunbar,*		H. C., 1789		Charlton.
Thatcher B. Dunn,	Ludlow, Vt., 1844.		1873	Gardner.
Alexander Dustin,*	N. Boston, N. H., 1776.	D. C., 1799	1804	{ Harvard, Westminster Sterling.
Joseph Dwight,*	Hatfield, 1703.	H. C., 1722	1737	Brookfield.
Luke Eastman,*		D. C., 1812		Barre, Sterling.
Samuel Eastman,*		D. C., 1802		Hardwick.
Joshua Eaton,*	Waltham, 1714.	H. C., 1735	1737	Worcester, Leicester.
James Eliot,				Worcester.
James E. Estabrook,	Worcester, 1829.	Y. C., 1851	1853	Worcester.
Constantine C. Esty, r	Newton, 1824.	Y. C., 1845		Milford, Framingham.
Henry E. Fales,	Walpole, 1837.		1864	Milford.
Farwell F. Fay, r	Athol, 1835.		1859	Athol, Boston.
Frank G. Fessenden, r	Fitchburg, 1849.		1872	Fitchburg, Greenfield.
Stephen Fessenden,*	Cambridge.	H. C., 1737	1742	Worcester.
Charles Field,	Athol, 1815.		1843	Athol.
Maturin L. Fisher, r	Danville, Vt.		1831	Worcester, Iowa.
Joel W. Fletcher, r	Northbridge, 1817.	A. C., 1838	1840	Leominster, Northboro'.
Waldo Flint, r	Leicester, 1794,	H. C., 1814		Leicester, Boston.
George Folsom, r *	Kennebunk, Me., 1802.	H. C., 1822		Worcester.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
W. Trowbridge Forbes	Westborough, 1850.	A. C., 1871	1878	Westborough.
Alfred D. Foster,*	Brookfield, 1800.	H. C., 1819	1822	Worcester.
Dwight Foster,*	Brookfield, 1757.	B. U., 1774	1780	Brookfield, - Rutland.
Dwight Foster, r	Worcester, 1828.	Y. C., 1848	1849	Worcester, Boston.
John M. Foster,				Warren.
Barlow Freeman, r *				{ Charlton, Southbridge.
Elisha Fuller,*	Princeton, 1795.	H. C., 1815	.	{ Concord, Lowell, Worcester.
Frederick W. Gale,*	Northborough.	H. C., 1836	1839	St. Louis, Mo., Worcester.
Francis A. Gaskill,	Blackstone, 1846.	B. U., 1866	1869	Worcester.
Charles B. Gates,	Worcester, 1851.	M. U.	1875	Worcester.
Richard George,*				W. Brookfield.
Arad Gilbert, r		B. U., 1797		{ Hanover, N.H. Lebanon, N.H. N. Brookfield.
Daniel Gilbert,*	Brookfield, 1773.	D. C., 1796	1805	N. Brookfield.
William A. Gile,	Franklin, N. H., 1843.		1869	Greenfield, Worcester.
Moses Gill,*		H. C., 1784		Mendon.
Sam'l B. I. Goddard,	Shrewsbury, 1821.	A. C., 1840	1843	Worcester.
Sam'l W. E. Goddard,	Berlin, 1832.		1852	{ Belchertown, Boston, Hubbardst'n.
Jesse W. Goodrich,*	Pittsfield, 1808.	U. C., 1829	1833	Worcester.
Isaac Goodwin,*	Plymouth, 1786.		1808	{ Boston, Sterling, Worcester.
J. Martin Gorham,	Barre, 1830.	H. C., 1851	1854	Barre.
Francis P. Goulding,	Grafton, 1837.	D. C., 1863	1866	Worcester.
Isaac D. Goulding,	Worcester, 1841.		1877	Worcester.
Sam'l L. Graves,	Groton, 1847.	A. C., 1870	1872	Fitchburg.
James Green, Jr.	Worcester, 1841.	H. C., 1862	1866	Worcester.
William E. Green,*	Worcester, 1777.	B. U., 1798	1801	Grafton, Worcester.
William N. Green,*	Milford, 1804.		1827	Worcester.
Timothy Green,*		B. U., 1786		Worcester.
J. Evarts Greene,	Boston, 1834.	Y. C., 1853	1869	No. Brookfield.
Jonathan Grout,				Petersham.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
William Grout,*	Spencer.		1850	Worcester.
Franklin Hall, r	Sutton, 1820.		1846	Worcester.
Alexander (Edward) } Hamilton,* }	Worcester, 1812.		1835	Barre, Worcester.
Elisha Hammond,*	1781.	Y. C., 1802	1806	W. Brookfield.
William B. Harding,	Tilton, N. H., 1844.		1867	Worcester.
William T. Harlow,	Shrewsbury, 1828.	Y. C., 1851	1853	{ Spencer, R'd Bluffs, Cal. Worcester.
Jubal Harrington, r *	Shrewsbury, 1803.	B. U.	1825	Worcester.
Nahum Harrington,*	Westborough, 1778.	B. U., 1807	1811	Westborough.
Henry F. Harris,	W. Boylston, 1849.	Y. C., 1871	1873	Worcester.
Joel Harris,*		D. C., 1804		Harvard.
Chas. W. Hartshorn, r	Taunton, 1814.	H. C., 1833	1837	Worcester.
Harris C. Hartwell,	Groton, 1847.	H. C., 1869	1872	Fitchburg.
Dan'l W. Haskins,	Hardwick, 1829.	A. C., 1858	1862	Worcester.
Chas. C. P. Hastings,*	Mendon, 1804.	B. U., 1825	1828	Mendon.
Seth Hastings,*	Cambridge, 1762.	H. C., 1782	1786	Mendon.
William S. Hastings,*	Mendon, 1798.	H. C., 1817	1820	Mendon.
Sam'l F. Haven,	Dedham, 1806.	A. C., 1826		Worcester.
Chas. S. Hayden,	Harvard, 1848.		1871	Fitchburg.
Stillman Haynes,	Townsend, 1833.		1861	Townsend, Fitchburg.
Daniel Henshaw, r *	Leicester, 1872.	H. C., 1807		{ Winchendon, Worcester, Boston, Lynn.
Levi Heywood,*		D. C., 1808		Worcester.
James H. Hill,*			1852	No. Brookfield, New York.
Henry E. Hill,	Worcester, 1850.	H. C., 1872	1875	Worcester.
J. Henry Hill,	Petersham.		1844	Worcester.
Samuel Hinckley,*		Y. C., 1781		Brookfield.
Ephraim Hinds, r * .		H. C., 1805		{ Athol, Barre, Harvard.
Benj. A. Hitchborn,*		H. C., 1802		Worcester.
Pelataiah Hitchcock,*		H. C., 1785		Brookfield, Hardwick.
George F. Hoar,	Concord, 1826.	H. C., 1846	1849	Worcester.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
George W. Hobbs,	Worcester, 1839.	N. U., 1857	1860	Uxbridge.
Charles A. Holbrook,*	Grafton, 1821.		1857	Worcester.
Leander Holbrook,	Croydon, N. H., 1815.		1847	Milford.
Leander Holbrook, Jr.,	Milford, 1849.	H. C., 1872	1875	Milford.
S. Holman, r			1850	Fitchburg.
George B. N. Holmes,				Oakham.
William R. Hooper, r	Marblehead, 1819.		1849	Worcester.
John Hopkins,	Gloucester, Eng., 1840.		1864	Wor., Millbury.
Wm. S. B. Hopkins,	Charleston, S. C., 1836.	W. C., 1855	1858	{ Ware, N. Orl. Greenfield, Worcester.
George W. Horr,	New Salem, 1830.		1860	New Salem, Athol.
Nathaniel Houghton,*	Sterling.		1810	Barre.
Ephraim D. Howe,	Marlborough, 1842.	Y. C., 1867	1870	Gardner.
Estes Howe,*		D. C., 1800		Sutton.
Frederic Howes,				Sutton, Templeton.
William H. Howe,*		Y. C., 1847	1849	Worcester.
George H. Hoyt,*	Athol, 1839.		1859	Athol.
John W. Hubbard,*		D. C., 1814		Worcester.
Henry S. Hudson, r			1852	Worcester.
Jos. W. Huntington,*	Middlebury, Vt., 1807.	H. C., 1832	1837	Lancaster.
Benj. D. Hyde,*	Sturbridge, 1803.		1831	Sturbridge. Southbridge.
Albert S. Ingalls,*	Rindge, N. H., 1830.		1858	Fitchburg, Arlington.
Eleazer James,*	Cohasset, 1754.	H. C., 1778		Barre.
Samuel Jennison,*		H. C., 1774		Oxford.
Asa Johnson,*		H. C., 1787		Fitchburg, Leominster.
Charles R. Johnson,	Dana, 1852.	H. C., 1875	1878	Worcester.
George W. Johnson,	Boston, 1827.		1863	Brookfield.
Theodore S. Johnson,	Dana, 1843.		1866	Worcester, Blackstone.
Silas Jones, r				Leicester.
James P. Kelley,	Boston, 1848.		1876	Worcester.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Joseph G. Kendall,*	Leominster, 1786.	H. C., 1810		Leominster, Worcester.
Thomas G. Kent,	Framingham, 1829.	Y. C., 1851	1853	Milford.
Francis L. King,	Charlton, 1834.		1859	Boston, Worcester.
Thomas Kinnicut,*	Warren, R. I., 1800.	B. U., 1822	1825	Worcester.
Edward Kirkland, r *			1834	Templeton, Brattle'o, Vt.
Daniel Knight,*		B. U., 1813		Leicester, Spencer.
Lincoln B. Knowlton, 1				Millbury.
Joseph Knox, r				Hardwick.
Chris'r J. Lawton,*			1726	Leicester.
Seth Lee,*	Barre.		1810	Barre.
Benjamin Lincoln,*		H. C., 1777		Mendon.
D. Waldo Lincoln,	Worcester, 1813.	H. C., 1831	1834	Worcester.
Edward W. Lincoln.	Worcester, 1820.	H. C., 1839	1843	Worcester.
Enoch Lincoln,*	Worcester, 1788.	B. C., 1811	1811	Worcester.
Levi Lincoln,*	Hingham, 1749.	H. C., 1772	1775	Worcester.
Levi Lincoln,*	Worcester, 1782.	H. C., 1802	1805	Worcester.
William Lincoln,*	Worcester, 1801.	H. C., 1822	1825	Worcester.
William S. Lincoln,	Worcester, 1811.	B. C., 1830	1833	Millbury, Worcester.
Geo. W. Livermore, r		H. C., 1823		Millbury.
Edward P. Loring,	Norridgewock, Me. 1837	B. C., 1861	1868	Fitchburg.
Aaron Lyon,*	Southbridge, 1824.	Y. C., 1849	1851	Sturbridge.
Charles F. Mann,	Worcester, 1849.		1873	New York, Worcester.
David Manning, Jr.,	Paxton, 1846.	Y. C., 1869	1872	Worcester.
Jerome F. Manning,	Merrimack, N. H., 1838.		1862	Worcester.
Jacob Mansfield, r *	Lynn.			Warren, New York.
Charles Mason,	Dublin, N. H., 1810.	H. C.	1839	Fitchburg.
Joseph Mason,	Northfield, 1813.		1837	Templeton, Worcester.
John H. Mathews,*	Worcester, 1826.		1848	Worcester.
Wm. B. Maxwell,	Biddeford, Me.			Lowell, Worcester.



NAME.	BORN.	GRADUATED.	ADM	FRACTISED.
Lewis A. Maynard,	Shrewsbury, 1810.			Worcester.
James J. McCafferty, r	Lowell, 1852.		1873	Worcester, Lowell.
Mathew J. McCafferty,	Ireland, 1829.		1857	Lowell, Worcester.
Andrew D. McFarland,*	Worcester, 1811.	U. C., 1832	1835	Worcester.
John McIlvene,	Scotland, 1850.		1876	Grafton.
James H. McMahon,	Ireland, 1850.		1877	Fitchburg.
Prentice Mellen,*		H. C., 1784		Sterling.
Edward Mellen,*	Westborough, 1802.	B. U., 1823	1828	Wayland, Worcester.
Charles H. Merriam,	Westport, N. Y., 1822.		1852	Leominster.
David H. Merriam,	Essex, N. Y., 1820.		1850	Fitchburg.
Lincoln A. Merriam,			1851	Fitchburg.
Pliny Merrick,*	Wilbraham, 1756.	H. C., 1776	1787	{ Wilbraham, Brookfield.
Pliny Merrick,*	Brookfield, 1794.	H. C., 1814	1817	{ Worcester, Charlton, Swansey, Taunton, Boston.
Henry K. Merrifield,	Worcester, 1840.		1862	Blackstone.
Charles A. Merrill,	Boston, 1843.	W. U., 1864		Minneapolis, Worcester.
Clough R. Miles, r	Westminster, 1796.	H. C., 1817	1820	{ Townsend, Millbury, Athol.
Jonathan Morgan,*		U. C., 1803		Shrewsbury.
David L. Morrill,	Goffstown, N. H., 1827.	D. C., 1847	1850	{ Winchendon, W. Brookf'd, Worcester.
Adolphus Morse, r *			1849	Worcester.
Andrew Morton,*		B. U., 1795		Worcester.
Daniel Murray,*		H. C., 1771		Rutland.
T. Edward Murray,*	Worcester, 1842.		1872	Worcester.
Thomas L. Nelson,	Haverhill, N. H., 1827.	U. V., 1846	1855	Worcester.
Jos. W. Newcomb, r *	Greenfield.	W. C., 1825		{ Templeton, Salisbury, Worcester, N. Orleans.
Horatio G. Newcomb,*			1850	Templeton.
Benjamin F. Newton,*	Worcester, 1821.		1850	Worcester.
Rejoice Newton,*	Greenfield, 1782.	D. C., 1807	1810	Worcester.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Amasa Norcross,	Rindge, N. H., 1824.		1848	Fitchburg.
Daniel Oliver,*	Middleborough.	H. C., 1762	1781	Hardwick.
Henry Paine,*	Worcester, 1804.		1827	Worcester.
Nathaniel Paine,*	Worcester, 1759.	H. C., 1775	1781	Groton, Worcester.
John Paine,*	Sturbridge.	H. C., 1799		
Timothy Paige,				
George G. Parker,*	Ashburnham, 1800.	Y. C.		Ashburnham.
George G. Parker,	Acton, 1826.	U. C., 1852	1857	Milford.
Grenville Parker, r	Chelmsford.		1860	Lowell, Worcester.
Henry L. Parker,	Acton, 1833.	D. C., 1856	1859	Milford, Worcester.
Isaac Patrick,				
Silas Paul,*		D. C., 1793		Leominster.
H. B. Pearson,*			1844	Harvard.
Lucius D. Peirce,*	Chesterfield, 1819.	N. U., 1846	1854	Nashua, N. H., Winchendon.
Lafayette W. Pierce,	Chesterfield, 1826.	N. U., 1846	1854	{ Oxford, Westborough Winchendon.
William Perry,*	Leominster, 1786.		1828	Leominster.
Luther Perry,*				Barre.
Onslow Peters, r	Westborough, 1803.	B. U., 1825		Westborough.
Francis Plunkett,	Ireland, 1840.		1874	Worcester.
Thomas Pope,*	Dudley, 1788.	B. U., 1809		Dudley.
Burton W. Potter,	Colesville, N. Y., 1843.		1868	Worcester.
Calvin E. Pratt, r	Shrewsbury, 1827.		1853	Worcester, New York.
William Pratt,*	Shrewsbury, 1806.	B. U., 1825		Shrewsbury, Worcester.
Joseph Prentice, r			1838	Douglas.
Addison Prentiss,	Paris, Me., 1814.			Lee, Me., Worcester.
Charles G. Prentiss,*	Leominster, 1778.			Oxford, Worcester.
Joseph Proctor,*		D. C., 1791		Athol.
James F. Purcell,	Weymouth, 1852.		1876	Worcester.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Arthur A. Putnam,	Danvers, 1832.		1875	{ Danvers, Blackstone, Uxbridge.
George E. Putnam,	Fitchburg, 1853.	M. U., 1875	1875	Fitchburg.
James Putnam,*	Salem, 1725.	H. C., 1746	1748	Worcester.
Rufus Putnam,*	Warren, 1783.	W. C., 1804		Rutland.
Abraham G. Randall,*	Manchester, 1804.	H. C., 1826.	1831	Millbury, Worcester.
Warren Rawson,*	Mendon, 1777.	B. U., 1802		Mendon.
Henry C. Rice,	Millbury, 1827.	B. U., 1850	1852	Worcester.
Merrick Rice,*		H. C., 1785		Harvard, Lancaster.
William W. Rice,	Deerfield, 1826.	B. C., 1846	1854	Worcester.
Jairus Rich,*				Charlton.
Geo. W. Richardson, r	Boston, 1808.	H. C., 1829	1834	Worcester.
Artemas Rogers, r				Fitchburg.
Edward Rogers, r *				Webster, Chicago, Ill.
Charles M. Ruggles,	Providence, R. I., 1836.		1860	Worcester.
Timothy Ruggles,*	Rochester, 1711.	H. C., 1732	1735	{ Rochester, Sandwich, Hardwick.
Stephen Salisbury,	Worcester, 1798.	H. C., 1817		Worcester.
Stephen Salisbury, Jr.,	Worcester, 1835.	H. C., 1856	1863	Worcester.
Simeon Saunderson,*			1820	Westminster, Athol.
Edward B. Sawtell,	Fitchburg, 1840.	H. C., 1862	1871	Fitchburg.
Emory C. Sawyer,			1875	
John S. Scammell,	Bellingham, 1816.	B. U.	1840	Milford.
William Sever,*		H. C., 1778		Rutland.
John Shepley,*				Worcester.
Jonas L. Sibley,*	Sutton, 1791.	B. U., 1813		Sutton.
William F. Slocum, r	Tolland, 1822.		1846	Grafton, Boston.
Henry O. Smith,	Leicester, 1839.	A. C., 1863	1866	Worcester.
Jonathan Smith,*	Peterboro', N. H., 1842.	D. C., 1871	1875	Clinton.
Moses Smith,*	Rutland, 1777.		1802	Lancaster.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
N. J. Smith, r				{ Blackstone, Spencer, Aurora, Ill.
William A. Smith,	Leicester, 1824.	H. C., 1843	1846	Worcester.
Chas. H. B. Snow,*	Fitchburg, 1822.	H. C., 1844	1847	Fitchburg.
Fred'k W. Southwick,	Blackstone, 1843.		1868	Worcester.
Wm. L. Southwick, *	Mendon, 1827.		1849	Hopkinton, Blackstone.
Frank B. Spalter,	Groton, 1845.		1871	Winchendon.
Franklin M. Sprague, r	East Douglas, 1841.		1870	Worcester.
John Sprague,*	Rochester, 1740.	H. C., 1765	1768	{ Newp't, R I., Keene, N. H., Lancaster.
Samuel J. Sprague,*		H. C., 1799		Lancaster.
Peleg Sprague,*	Rochester,	D. C., 1783	1784	{ Lancaster, Winchendon, Fitchburg, Keene, N. H.
Homer B. Sprague, r	Sutton, 1829.	Y. C., 1852	1854	Worcester, New Haven.
Hamilton B. Staples,	Mendon, 1829.	B. U., 1851	1854	Milford, Worcester.
William Stearns,*	Lunenburg.	H. C., 1770	1776	Worcester.
Daniel Stearns,*	Fitchburg, 1831.	D. C., 1855	1859	Fitchburg.
Heman Stebbins,*	W. Springfield.	Y. C., 1814		Brookfield.
William Stedman,*	Cambridge, 1765..	H. C., 1784	1787	{ Lancaster, Charlton, Newburyport
Charles F. Stevens,	Worcester, 1855.	H. C., 1876	1878	Worcester.
Charles G. Stevens,	Claremont, N. H., 1821.	D. C., 1840	1845	Clinton.
Isaac Stevens,*	Wareham, 1792.		1821	Middleboro', Athol.
Amos W. Stockwell, r *	Sutton.	A. C., 1833	1837	Worcester, Chicopee.
John H. Stockwell,*	Webster, 1838.		1859	Webster.
Elijah B. Stoddard,	Upton, 1826.	B. U., 1847	1849	Worcester.
Henry D. Stone,*	Southbridge, 1820.	A. C., 1844	1847	Worcester, New Orleans.
Isaac Story,*		H. C., 1793		Rutland, Sterling.
Martin L. Stowe,*				Southboro', Northboro'.
Asa E. Stratton,	Grafton, 1853.	B. U., 1873	1875	Fitchburg.
Ashbel Strong,*				Fitchburg.
Simeon Strong,*		Y. C., 1786		Barre.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Solomon Strong,*		W. C., 1798		{ Athol, Lancaster, Westminster.
John Stuart,*				
Bradford Sumner,*		B. U., 1808		{ Brookfield, Leicester, Spencer.
George Swan,	Hubbardston, 1826.		1848	Hubbardston, Worcester.
Samuel Swan,*	Leicester, 1778.	H. C., 1799		Hubbardston, Oakham.
Bezaleel Taft, Jr.,*	Uxbridge, 1780.	H. C., 1804		Uxbridge.
George S. Taft,*	Uxbridge, 1826.	B. U., 1848	1851	Uxbridge.
Ezra Taylor,*	Southborough.			Southborough.
Adin Thayer,	Blackstone, 1828.		1854	Worcester.
Amasa Thayer,*		H. C., 1810		Brookfield.
Francis N. Thayer,	Blackstone.		1876	Blackstone.
John R. Thayer,	Douglas, 1845.	Y. C., 1869	1871	Worcester.
Joseph Thayer,*	Douglas, 1792.	B. U., 1815	1818	Uxbridge.
Levi Thaxter,				Worcester.
Benj. F. Thomas,*	Boston, 1813.	B. U., 1830	1833	Worcester, Boston.
Oliver H. Tillotson,*	Orford, N. H.		1855	Worcester.
Seymour A. Tingier,	Tolland.	W. C., 1855	1857	Webster.
Joseph A. Titus,	Leicester, 1842.	A. C., 1863	1868	Worcester.
Paul P. Todd, r	Atkinson, N. H., 1819.	D. C., 1842	1847	{ Blackstone, Boston, St. Louis, New York.
John Todd, r				Westminster, Fitchburg.
Ebenezer Torrey,	Franklin, 1801.	H. C., 1822	1825	Fitchburg.
George A. Torrey, r	Fitchburg, 1838.	H. C., 1859	1861	Fitchburg. Boston.
Newton Tourtelot, r			1853	Webster.
William M. Towne, r *	Charlton.	A. C., 1825	1828	Worcester.
Louis K. Travis,	Holliston, 1852.		1875	Westborough.
Joseph Trumbull, r	Worcester, 1828.		1849	Worcester.
George A. Tufts,*	Dudley, 1797.	H. C., 1818	1821	Dudley.
Stephen P. Twiss, r	Charlton, 1830.		1853	Worcester, Kansas City.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Benj. O. Tyler, r				Winchendon.
Nathan Tyler,*		H. C., 1779		Uxbridge.
Nathan Tyler, Sr.,*				Uxbridge.
Adin B. Underwood, r	Milford, 1828.	B. U., 1849	1853	Milford, Boston.
F. H. Underwood, r				Webster.
Jabez Upham,*	Brookfield.	H. C., 1785	1788	{ Sturbridge, Clarem't, N.H. Brookfield.
Joshua Upham,*	Brookfield, 1741.	H. C., 1763	1765	{ Brookfield, Boston, New York.
John L. Utley,	Brimfield, 1837.		1874	Blackstone, Worcester.
Samuel Utley,	Chesterfield, 1843.		1867	Worcester.
George F. Verry,	Mendon, 1826.		1851	Worcester.
Horace B. Verry,	Saco, Me., 1843.		1864	Worcester.
Edward J. Vose,*	Augusta, Me., 1806.	B. C., 1825	1828	Worcester.
Richard H. Vose,*		B. C., 1822		Worcester.
Charles Wadsworth, r				Barre, Worcester.
Lovell Walker,*	Brookfield, 1768.	D. C., 1794	1801	Templeton, Leominster.
Andrew H. Ward,*		H. C., 1808		Shrewsbury.
Nahum Ward,*	Shrewsbury.		1731	Shrewsbury.
J. C. B. Ward, r				Athol.
Thornton K. Ware,	Cambridge, 1823.	H. C., 1842	1846	Fitchburg.
Emory Washburn,*	Leicester, 1800.	W. C., 1817	1821	{ Charlemont, Leicester, Worcester, Cambridge.
John D. Washburn,	Boston, 1833.	H. C., 1853	1856	Worcester.
Asa H. Waters,	Millbury, 1808.			Millbury.
Francis Wayland, Jr., r	Providence, R. I.	B. U., 1846		Worcester, N. Haven, Ct.
Jared Weed,*	New York, 1783.	H. C., 1807	1810	Petersham.
Charles K. Wetherell,*	Petersham, 1822.		1844	{ Petersham, Barre, Worcester.
George A. Wetherell,*	Oxford, 1825.	Y. C., 1848	1851	Worcester.
John W. Wetherell,	Oxford, 1820.	Y. C., 1844	1846	Worcester.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
J. Allyn Weston, r *	Duxbury,	H. C., 1846	1849	Worcester, Milford.
Charles Wheaton, r *	R. I., 1828.		1851	Worcester.
George Wheaton,*		H. C., 1814		Uxbridge.
Henry S. Wheaton, r *		B. U., 1841	1844	Dudley.
Otis C. Wheeler,*	Worcester, 1808.		1830	Worcester.
Peter Wheelock,*		B. U., 1811		Mendon.
William J. Whipple,*		H. C., 1805		Dudley.
William C. White,*				{ Grafton, Rutland, Sutton, Worcester.
Solon Whiting,				Lancaster.
Abel Whitney,*		W. C., 1810		Harvard.
Giles H. Whitney,	Boston, 1818.	H. C., 1837	1842	{ Westminster Templeton, Winchendon.
Milton Whitney, r *	Ashburnham, 1823.		1846	{ Fitchburg, Baltimore, Md.
Abel Willard,*	Lancaster, 1732.	H. C., 1752		Lancaster.
Calvin Willard,*	Harvard, 1784.	H. C.	1809	{ Barnstable, Petersham, Fitchburg.
Jacob Willard,*		B. U., 1805		Fitchburg.
Joseph Willard, r *	Cambridge, 1798.	H. C., 1816	1819	Waltham, Lancaster.
Levi Willard,*		H. C., 1775		Lancaster.
Elijah Williams,*		H. C., 1764		Deerfield, Mendon.
Hartley Williams,	Somerset, Me. 1820.		1850	Worcester.
James O. Williams,*	New Bedford, 1827.	H. C., 1849	1853	Worcester, St. Louis, Mo.
Lemuel Williams,*	Dartmouth, 1782.	B. U., 1804	1808	New Bedford, Worcester.
Lemuel S. Williams,*	New Bedford, 1812.	H. C., 1836		Dedham, Westborough.
William A. Williams,	Hubbardston, 1820.		1848	Worcester.
John Winslow,*		B. U., 1795		Northborough.
G. R. M. Withington,*	Boston.	U. V., 1825	1829	Boston, Lancaster.
Harry Wood,*	Grafton, 1838.			Grafton.
Cortland Wood,	Plainfield, Ct., 1850.	Y. C., 1871	1873	Oxford.
Joseph H. Wood,	Mendon, 1853.		1877	Milford.

NAME.	BORN.	GRADUATED.	ADM.	PRACTISED.
Nathaniel Wood,*	Holden, 1797.	H. C., 1821		Fitchburg.
Samuel F. Wood,*	Barre, 1837.	Y. C., 1856	1858	Barre.
George M. Woodward,	Worcester, 1838.		1860	Worcester.
James M. Woodbury,	Templeton, 1819.		1862	Fitchburg.











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